



City of Columbus

Legislation Report File Number: 3234-2019

Office of City Clerk
90 West Broad Street
Columbus OH 43215-9015
columbuscitycouncil.org

Emerg

File ID: 3234-2019 **Type:** Ordinance **Status:** Passed

Version: 1 ***Committee:** Rules & Reference Committee

File Name: Amend Chapter 362 **File Created:** 12/04/2019

Final Action: 12/18/2019

Auditor Cert #:

Auditor: When assigned an Auditor Certificate Number I , the City Auditor, hereby certify that there is in the treasury, or anticipate to come into the treasury, and not appropriated for any other purpose, the amount of money specified hereon, to pay the within Ordinance.

Contact Name/No.: Darlene Wildes 5-7826

Floor Action (Clerk's Office Only)

Mayor's Action

Council Action

Mayor	Date	Date Passed/ Adopted	President of Council
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Veto	Date	City Clerk
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Title: To amend Columbus City Code Sections 362.014, 362.03, and 362.067 to implement modifications mandated by the Ohio General Assembly relating to the exemption of retirement plan payments from municipal income tax and to the administration and collection of municipal net profit tax income by the Ohio Department of Taxation if so elected by the taxpayer; and to declare an emergency.

Sponsors: Elizabeth Brown



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Attachments: Attachment to Ordinance to Amend Chapter 362
FINAL.docx

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	12/4/2019	AUDITOR APPROVER	Approved	12/6/2019
Notes: MNK/bam					
1	2	12/4/2019	John Laughman	Delegated	
Notes: Delegated: Out Of Office					
1	3	12/4/2019	Aileen Heiser	Approved	12/5/2019
1	4	12/4/2019	Aileen Heiser	Approved	12/6/2019
1	5	12/4/2019	Adam Robins	Approved	12/6/2019
1	6	12/4/2019	Joe Lombardi	Approved	12/6/2019
1	7	12/4/2019	Auditor Reviewer	Approved	12/6/2019
Notes: MNK/blp					
1	8	12/4/2019	AUDITOR APPROVER	Approved	12/6/2019
Notes: MNK/bam					
1	9	12/4/2019	ATTORNEY APPROVER	Approved	12/6/2019
Notes: JTC					

History of Legislative File

Ver.	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Columbus City Council	12/16/2019	Approved				Pass
1	COUNCIL PRESIDENT	12/16/2019	Signed				
1	MAYOR	12/17/2019	Signed				
1	CITY CLERK	12/18/2019	Attest				

ODI: Following the review and approval, when required, the Office of Diversity and Inclusion certifies



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compliance
with Title 39 as of date listed.

City Attorney: Following review and approval, when required, this ordinance has been reviewed by the City Attorney's Office as to its form and legality only.

Explanation

This ordinance amends Sections 362.014, 362.03, and 362.067 of the Columbus City Codes to bring the Code into conformity with Ohio Revised Code Chapter 718, Municipal Income Tax.

This ordinance also amends Section 362.081 of the Columbus City Codes to further clarify the circumstances under which a resident individual taxpayer may seek a nonrefundable credit for municipal income taxes already paid on the resident's distributive or proportionate share of the income of a pass-through entity.

Sections 362.014, 362.03, and 362.017

R.C. Section 718.04(A) provides that a municipal corporation that levies an income tax may not enact code provisions that conflict with R.C. Chapter 718.

The 133rd Ohio General Assembly enacted House Bill (H.B.) 166, the State's general appropriations bill for the biennium, which modified R.C. Chapter 718 in two ways that necessitate modifications to the Columbus City Codes. First, H.B. 166 amended R.C. Section 718.01 by defining the terms "pension" and "retirement benefit plan." Under the Ohio Revised Code, pensions and retirement benefit payments are "exempt income" not subject to municipal income taxation. R.C. § 718.01(C)(3). By defining "pension" to include retirement benefit plans that do not qualify for federal income tax deferment or exemption from FICA or Medicare taxes, H.B. 166, in effect, prevents municipalities from treating nonqualified deferred compensation plans, including selective executive retirement plans, as taxable income. Because both terms were previously undefined in the Ohio Revised Code, the City of Columbus adopted code provisions in 2014 that treat such nonqualified deferred compensation plans as taxable income. Therefore, the Code must be amended to bring it into conformity with R.C. Chapter 718, as amended by H.B. 166.

Second, H.B. 166 amended certain provisions of R.C. Sections 718.80 to 718.95, which permit non-individual taxpayers doing business in Columbus to elect to be subject to state administration and collection of municipal net profits income tax. H.B. 166 amended these provisions by setting forth the procedures by which a non-individual municipal taxpayer may terminate or opt out of the state



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administration and collection system.

This ordinance modifies Columbus City Code Section 362.03 effective January 1, 2020 to adopt the new definitions of “pension” and “retirement benefit plan” required by H.B. 166. This ordinance also modifies Section 362.014 to make clear that the new definitions of “pension” and “retirement benefit plan” apply only to taxable years beginning on or after January 1, 2020. Finally, this ordinance modifies Section 362.07 to incorporate the updated language from H.B. 166 regarding the procedures by which a non-individual municipal taxpayer may opt out of state administration and collection of municipal income taxes pursuant to the procedures set forth in R.C. 718.80 to 718.95.

It should be noted that the City is a party to ongoing litigation seeking a declaration that H.B. 49, enacted by the 132nd Ohio General Assembly, which created the procedures set forth in R.C. Sections 718.80 to 718.95 for the state administration and collection of municipal income taxes, is unconstitutional and usurps the powers of local self-government. This ordinance does not concede the legality of unconstitutional state actions.

Section 362.081

Section 362.081(A) of the Columbus City Codes sets forth the circumstances under which a resident individual taxpayer may receive credits.

Section 362.081(A)(2) provides that a resident individual is allowed a non-refundable credit for municipal income taxes paid by a pass-through entity on the resident individual’s distributive or proportionate share of the pass-through entity income. The Division of Income Tax wishes to amend Section 362.081(A)(2) to make clear that such non-refundable credit is allowed regardless of whether the pass-through entity paid municipal income taxes to another municipal corporation or to the City of Columbus.

FISCAL IMPACT: This code change will have a significant financial impact upon the City of Columbus because the exemption of certain retirement plan payments from municipal income tax will diminish Columbus’ income tax revenue. Although it is not possible to quantify this amount with certainty, past collections indicate income from nonqualified deferred compensation plans generated over \$1 million in income tax revenue over the last three tax years.

EMERGENCY ACTION: Emergency Action is being requested in order to amend the Columbus City Code Chapter 362 to make it consistent with R.C. Chapter 718. Because the updated language of H.B. 166 applies to municipal tax years beginning on or after January 1, 2020, the City must ensure that it updates conflicting provisions in the Columbus City Codes before that time.



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Title

To amend Columbus City Code Sections 362.014, 362.03, and 362.067 to implement modifications mandated by the Ohio General Assembly relating to the exemption of retirement plan payments from municipal income tax and to the administration and collection of municipal net profit tax income by the Ohio Department of Taxation if so elected by the taxpayer; and to declare an emergency.

Body

WHEREAS, Section 101.01 of House Bill (H.B.) 166 of the 133rd General Assembly, the State's general appropriations bill for the biennium, included amendments to Ohio Revised Code Sections 718.01, definitions applicable to municipal income tax, and 718.80 through 718.95, which permits non-individual

taxpayers doing business in Columbus to elect to be subject to the referenced sections of the Revised Code as they relate to the administration and collection of the Columbus net profits income tax; and

WHEREAS, Section 101.01 of H.B. 166 references and relies upon Section 718.04(A) of the Ohio Revised Code, which was enacted by the 132nd Ohio General Assembly in H.B. 49 and purports to make municipal income taxing authority conditional upon a municipality's adoption of code sections as dictated by the State; and

WHEREAS, the City is a party to ongoing litigation seeking a declaration that the H.B. 49 municipal income tax provisions, Section 718.04(A) of the Ohio Revised Code, and other provisions of Ohio law that usurp the powers of local self-government are unconstitutional, and to enjoin all actions by state officials to implement the H.B. 49 municipal income tax provisions; and

WHEREAS, the City, by enacting this Ordinance, does not concede the legality of the municipal income tax provisions of H.B. 49, Section 718.04(A) of the Ohio Revised Code, or any other law that is subject to the suit in which the City is participating, and reserves its right to continue prosecution of that lawsuit; and

WHEREAS, the City, in accordance with Section 718.04 of the Ohio Revised Code, wishes to clarify that a resident taxpayer may seek a nonrefundable credit for municipal income taxes already paid on resident's income from an ownership interest in a pass-through entity, regardless of whether the municipal income taxes already paid were paid to the City of Columbus or to another municipal corporation; and



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WHEREAS, an emergency exists in the usual daily operation of the City Auditor's Office, Income Tax Division, in that it is immediately necessary to amend the Columbus City Code in order to incorporate the modifications of the Ohio Revised Code Chapter 718 prior to January 1, 2020; now, therefore,

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

SECTION 1. That Section 362.014 of the Columbus City Codes is hereby amended to read as set forth in the attachment hereto, which is incorporated herein by reference.

SECTION 2. That Section 362.03 of the Columbus City Codes is hereby amended to read as set forth in the attachment hereto, which is incorporated herein by reference.

SECTION 3. That Section 362.067 of the Columbus City Codes is hereby amended to read as set forth in the attachment hereto, which is incorporated herein by reference.

SECTION 3. That Section 362.081 of the Columbus City Codes is hereby amended to read as set forth in the attachment hereto, which is incorporated herein by reference.

SECTION 4. That prior existing Sections 362.014, 362.03, 362.067, and 362.081 are hereby repealed.

SECTION 5. That for reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten days after passage if the Mayor neither approves nor vetoes

the same.

362.014 APPLICABILITY AND EFFECTIVE DATE

- (A) The effective date of the provisions of this Chapter 362 shall be January 1, 2016, and shall apply to municipal taxable years beginning on or after January 1, 2016, except for those sections set forth in Division (C).
- (B) The enactment of this chapter does not repeal the existing sections of Chapter 361 for any taxable year prior to 2016. For municipal taxable years beginning before January 1, 2016, the city shall continue to administer, audit, and enforce the municipal income tax under Columbus City Codes Chapter 361 and ORC 718 as it existed prior to January 1, 2016.
- (C) The effective dates of Sections 362.03(N)(4)(b)(ix) and 362.03(BB)(2) of this Chapter 362 shall be January 1, 2020, and shall apply to municipal taxable years beginning on or after January 1, 2020.

362.03 - 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 or in Title 57 of the Ohio Revised Code, 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 Title 57 of the Ohio Revised Code 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 Title 57 of the Ohio Revised Code.

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,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (W)(4) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (2) Add an amount equal to five per cent of intangible income deducted under division (A)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
 - (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (4)
 - (a) Except as provided in division (A)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (b) Division (A)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
- (8) (a) Except as limited by divisions (A)(8)(b), (c) and (d) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

- (b) No person shall use the deduction allowed by division (A)(8)(a) of this section to offset qualifying wages.
- (c) (i) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by the municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (A)(8)(a) of this section.
- (ii) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (A)(8)(a) of this section.
- (d) Nothing in division (A)(8)(c)(i) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (A)(8)(c)(i) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (A)(8)(c)(i) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (A)(8)(c)(i) of this section shall apply to the amount carried forward.
- (e) Any person utilizing a post-2017 net operating loss carryforward deduction shall submit with the return reflecting said deduction a schedule detailing the calculation and application of the net operating loss carryforward.
- (9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 362.063 of this chapter.
- (10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 362.063 of this chapter.

- (11) Add any deduction for pass-through entity not allowed as a deduction for a C-Corporation under the Internal Revenue Code.
 - (12) If the taxpayer is not a C corporation, is not a publicly traded partnership that has made the election described in division (W)(4) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.
 - (13) Nothing in division (A) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.
- (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 section 362.096 (B)(2) of this chapter;
 - (c) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under section 362.062(B)(2) of this chapter; or
 - (d) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under section 362.062(B)(3) of this chapter.
 - (e) For purposes of division (B)(1)(a), (b), (c) and (d) of this section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to section 362.18 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 section 362.096(B)(3) 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-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 section 3772.01 of the Ohio Revised Code.
- (G) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.
- (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) Intangible income; as described in division (O) of this section.
 - (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, 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 section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars 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 sections 5727.24 or 5727.30 of the Ohio Revised Code. Division (K)(9) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.
 - (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 (FF) of this section;
- (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) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (15) All municipal taxable income earned by individuals under eighteen 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 362.052 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 362.052 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:
 - (i) For qualifying wages described in division (B)(1) of section 362.052 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 362.052 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;
 - (ii) The employee receives a refund of the tax described in division (K)(16)(a) 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 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:

- (i) The individual's base of operation is located in the Municipality.
 - (ii) 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)(ii) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in section 362.052 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 pursuant to section 709.023 of the Ohio Revised Code 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) Earnings of mentally handicapped and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops.
- (20) For an individual, the gain from the sale of rental real estate property. Any related loss from the sale of rental real estate property shall not be taken against any source of income of the individual.
- (21) Any item of income that is exempt income of a pass-through entity 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.
- (22) Income the taxation of which is prohibited by the Constitution or laws of the United States.
- (L) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to 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, prizes, awards and winnings paid to residents of the municipality derived from the State lottery and paid by the State Lottery Commission 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.

- (b) For the purposes of division (N)(1)(a) of this section:
 - (i) 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 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;
 - (ii) 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
 - (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) For both resident and non-resident individuals, "other compensation" shall mean:
 - (a) Tips, bonuses, or gifts of any type, and including compensation received by domestic servants, casual employees and other types of employees. These payments are normally reported on a Form 1099 MISC.
 - (b) If the income appears as part of Medicare wages on a W-2 form and is not shown to be an exception in accordance with section 362.03(K) of this section, it shall be considered other compensation and is therefore taxable to the individual. This includes, but is not limited to:
 - (i) Payments made by an employer to an employee during periods of absence from work are taxable when paid and at the tax rate in effect at the time of payment, regardless of the fact that such payments may be labeled as sick leave or sick pay, sick pay paid by the employer to the employee, severance pay, supplemental unemployment benefits described in section 3402(o)(2) of the Internal Revenue Code, vacation pay, terminal pay, supplemental unemployment pay, wage and salary continuation plans, payments made for the release of liability related to termination of employment.
 - (ii) Tips, bonuses, fees, gifts in lieu of pay, gratuities.
 - (iii) Strike pay; grievance pay.

- (iv) Employer paid premiums for group term life insurance to the extent taxable for federal income tax purposes.
 - (v) Car allowance, personal use of employer-provided vehicle.
 - (vi) Incentive payments, no matter how described, including, but not limited to, payments to induce early retirement.
 - (vii) Contributions by an employee or on behalf of an employee, from gross wages, into an employee or third party trust or pension plan as permitted by any provision of the Internal Revenue Code that may be excludable from gross wages for federal income tax purposes such as 401K, 403(b), and 457 plans.
 - (viii) From January 1, 2016 to December 31, 2019, Nonqualified Deferred Compensation Plans or programs described in section 3121(v)(2)(C) of the Internal Revenue Code.
 - (ix) Effective January 1, 2020, Nonqualified Deferred Compensation Plans will no longer be included in Income as other compensation and will qualify as Pensions under this Chapter 362.
- (c) Trust payments not made pursuant to employee's retirement.
 - (d) Where compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding.
 - (i) Board, lodging or similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.
 - (ii) Restricted stock awards that vest over a period of time are taxable at their fair market value at the time they become vested and included in Medicare wages, as shown on the employee's IRS Form W-2.
- (O) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (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 Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (R) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under section 362.18 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 section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code .
- (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 362.062 of this chapter.
 - (b) For an individual who is a resident of the Municipality, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (T)(2) of this section.
 - (c) For an individual who is a nonresident of the Municipality, earned income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under section 362.062 of this chapter, then reduced as provided in division (T)(2) of this section.
- (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) 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"** as used in this chapter shall mean the City of Columbus
- (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 division (A)(8) of this section.
 - (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)(c) 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 same 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-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-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-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-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-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-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)(b) 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 section 125.30 of the Ohio Revised Code, 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 that 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) (1) From January 1, 2016 to December 31, 2019, **"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.

(2) Effective January 1, 2020, **"PENSION"** means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the

amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.

- (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) **"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.
 - (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 (FF)(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 (FF)(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 in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (f) Any amount not included in wages if all of the following apply:
 - (i) 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;

- (ii) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
- (iii) For no succeeding taxable year will the amount constitute wages;
- (iv) For any taxable year the amount has not otherwise been added to wages pursuant to either division (FF)(2) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(GG) **"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 per cent of the value of the taxpayer's outstanding stock;
- (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 per cent 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 (GG)(4) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
- (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 (GG)(1) to (3) of this section have been met.

(HH) **"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 in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(II) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 362.042 of this chapter.

(JJ) Effective January 1, 2020, **"RETIREMENT BENEFIT PLAN"** means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. "Retirement benefit plan" does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time.

~~(KK)(JJ)~~ **"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.

~~(LL)(KK)~~ **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

~~(MM)(LL)~~ **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

~~(NN)(MM)~~ **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

~~(OO)(NN)~~ **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.

~~(PP)(OO)~~ **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars 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 any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

~~(QQ)(PP)~~ **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

- (1) A municipal corporation acting as the agent of another municipal corporation;
- (2) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
- (3) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

~~(RR)(QQ)~~ **"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 .

~~(SS)(RR)~~ **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

~~(TT)(SS)~~ **"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, a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the grantor trust, disregarded entity, or qualifying subchapter S subsidiary.

~~(UU)(TT)~~ **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

~~(VV)(UU)~~ **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

~~(WW)(VV)~~ **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.

362.067 - ELECTION BY A NET PROFIT TAXPAYER TO BE SUBJECT TO THE PROVISIONS OF OHIO REVISED CODE CHAPTER 718

This section applies to any taxpayer, not an individual, engaged in a business or profession in the Municipality and electing to be subject to Sections 718.80 through 718.95 of the Ohio Revised Code, applicable for tax years beginning on or after January 1, 2018, pursuant to the language enacted by the Ohio Legislature during the 132nd General Assembly in the form of Am. Sub House Bill 49, which required municipal corporations to conform to and adopt the provisions of Ohio Revised Code Chapter 718 in order to retain the authority to impose, enforce, administer and collect a municipal income tax.

(A) A taxpayer may elect to be subject to sections 718.80 to 718.95 of the Revised Code in lieu of the provisions set forth in the remainder of Ohio Revised Code Chapter 718. Notwithstanding any other provision of Chapter 718, upon the taxpayer's election, both of the following shall apply:

- (1) The tax commissioner shall serve as the sole administrator of the municipal income tax for which the taxpayer is liable for the term of the election;
- (2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code and any applicable provision of Chapter 5703 of the Revised Code.

(B) (1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year, on a form prescribed by the tax commissioner.

(2) (a) The election, once made by the taxpayer, applies to the taxable year in which the election is made ~~and~~. A taxpayer may terminate the initial election within twenty-four months after the election is made by providing written notice to the tax commissioner. Such notice shall be provided at least sixty days before the effective date of the termination. Effective on the termination date, the taxpayer shall make all payments and remittances, and file all returns, due on or after the termination date to the appropriate municipal tax administrator. If not terminated, the election shall continue to apply to each subsequent taxable year until the taxpayer notifies the tax commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year of its termination of the election.

(b) ~~A~~ After the end of the twenty-four-month period in which a taxpayer may terminate an initial election, a notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the first day of the third month of any taxable year.

(c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 718.80 to 718.95 of the Revised Code, and is instead subject to the provisions set forth in the remainder of this chapter.

(C) (1)

(a) On or before the thirty-first day of January each year, the municipal corporation shall certify to the tax commissioner the rate of the tax in effect on the first day of January of that year.

(b) If, after the thirty-first day of January of any year, the electors of the municipal corporation approve an increase in the rate of the municipal corporation's tax on income

that takes effect within that year, the municipal corporation shall certify to the tax commissioner the new rate of tax not less than sixty days before the effective date of the increase, after which effective date the commissioner shall apply the increased rate.

- (2) The municipal corporation, within ninety days of receiving a taxpayer's notification of election under division (B) of this section, shall submit to the tax commissioner, on a form prescribed by the tax commissioner, the following information regarding the taxpayer:
 - (a) The amount of any net operating loss that the taxpayer is entitled to carry forward to a future tax year;
 - (b) The amount of any net operating loss carryforward utilized by the taxpayer in prior years;
 - (c) Any credits granted by the municipal corporation to which the taxpayer is entitled, the amount of such credits, whether the credits may be carried forward to future tax years, and, if the credits may be carried forward, the duration of any such carryforward;
 - (d) Any overpayments of tax that the taxpayer has elected to carry forward to a subsequent tax year;
 - (e) Any other information the municipal corporation deems relevant in order to effectuate the tax commissioner's efficient administration of the tax on the municipal corporation's behalf.
 - (3) If the municipal corporation fails to timely comply with divisions (C)(1) and (2) of this section, the tax commissioner shall notify the director of budget and management, who, upon receiving such notification, shall withhold from each payment made to the municipal corporation under section 718.83 of the Revised Code fifty per cent of the amount of the payment otherwise due to the municipal corporation under that section. The director shall compute the withholding on the basis of the tax rate most recently certified to the tax commissioner until the municipal corporation complies with divisions (C)(1) and (2) of this section.
- (D) The tax commissioner shall enforce and administer sections 718.80 to 718.95 of the Revised Code. 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.
- (E) No tax administrator shall utilize sections 718.81 to 718.95 of the Revised Code in the administrator's administration of a municipal income tax, and those sections shall not be applied to any taxpayer that has not made the election under this section.
- (F) Nothing in this chapter shall be construed to make any section of Chapter 718, other than sections 718.01 and 718.80 to 718.95 of the Revised Code, applicable to the tax commissioner's administration of a municipal income tax or to any taxpayer that has made the election under this section.
- (G) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code.

362.081 CREDIT FOR MUNICIPAL INCOME TAX PAID

(A) Resident Individual

(1) An individual taxpayer who resides in the municipality, and earns qualifying wages for work done or services performed or rendered in any municipal corporation, shall be allowed a credit in the amount of municipal income tax paid by or on behalf of that individual if it is demonstrated that a municipal income tax has been so paid. Such credit shall be allowed only to the extent of the tax assessed for the resident by this chapter.

(2) A resident individual with income from an ownership interest in one or more pass-through entities, activities of a sole proprietor, or rental activities, after the deduction of distributable losses from other pass-through entities or business activities not utilized as a net operating loss carry-forward in any municipal taxing jurisdiction after January 1, 2018, shall be allowed a non-refundable credit for the amount of municipal income tax so paid by him or ~~in~~ on his behalf ~~in such other to any~~ municipal corporation. Such nonrefundable credit is applicable only to the extent of the tax assessed for the resident individual by this chapter.

(3) The credit for tax paid by a resident individual for salaries or wages earned in a non-resident municipal corporation is limited to the tax that is paid after all allowable 2106 expenses have been deducted and shall not exceed the tax established by this chapter.

(4) No credit shall be given to a resident individual for any school district income tax.

(B) Non-resident individual

(1) Every individual taxpayer who is a non-resident of the municipality who earned qualifying wages for work done or services performed or rendered in the municipality, shall be allowed a credit for the amount so paid if it is demonstrated that a municipal income tax has been paid by or on behalf of that individual. Such credit shall be applied only to the extent of the tax assessed by this chapter.

(2) A non-resident individual with ownership interest in one or more pass-through entities taxed at the entity level shall not report said income or losses on a non-resident individual annual return and shall not be allowed any credit for taxes paid on their behalf by the pass-through entity to any municipal corporation.

(3) No credit shall be given to a non-resident individual for any school district income tax.