

### 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; As used in division (K)(1) of this section, "armed forces" has the same meaning as in 10 U.S.C. 101.
- (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, social, 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 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 sitused 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 sitused 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) "**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) "**SCHEDULE C**" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

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

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

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

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

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

(WW) "**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.

## **362.053 COLLECTION AT SOURCE; CASINO, SPORTS GAMING FACILITY, SPORTS GAMING AND VIDEO LOTTERY TERMINAL**

As used in this section, "sports gaming facility" and "type B sports gaming proprietor" have the same meanings as in section 3775.01 of the Revised Code and "lottery sports gaming" has "video lottery terminal" and "video lottery sales agent" have the same meaning meanings as in section 3770.23 3770.10 of the Revised Code.

- (A) The Municipality shall require the following persons to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section:
  - (1) A casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Revised Code, respectively;
  - (2) A video lottery sales agent conducting video lottery terminals on behalf of the state;
  - (3) A type B sports gaming proprietor offering sports gaming at a sports gaming facility.
- (B) If a person's winnings at a casino facility or sports gaming facility are an amount for which reporting to the Internal Revenue Service of the amount is required by section 6041 of the Internal Revenue Code, as amended, a casino operator or sports gaming proprietor shall deduct and withhold municipal income tax from the person's winnings at the tax rate of two and one-half (2.5) percent imposed by the municipality in which the casino facility or sports gaming facility is located.
- (C) Amounts deducted and withheld by a casino operator or sports gaming proprietor are held in trust for the benefit of the municipal corporation to which the tax is owed.
  - (1) On or before the tenth day of each month, the casino operator or sports gaming proprietor shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming or sports gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator or sports gaming proprietor shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.
  - (2) Annually, on or before the thirty-first day of January, a casino operator or sports gaming proprietor shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility or sports gaming facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator or sports gaming proprietor shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.
  - (3) Annually, on or before the thirty-first day of January, a casino operator or sports gaming proprietor shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator or sports gaming proprietor shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.

- (4) A casino operator or sports gaming proprietor that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (5) If a casino operator or sports gaming proprietor sells the casino facility or sports gaming facility or otherwise quits the casino or sports gaming business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator or sports gaming proprietor produces either of the following:
  - (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
  - (b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

- (6) The failure of a casino operator or sports gaming proprietor to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.
- (D) If a person's prize award from a video lottery terminal ~~or from lottery sports gaming offered in a video lottery terminal facility~~ is an amount for which reporting to the Internal Revenue Service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the tax rate of two and one-half (2.5) percent imposed by the municipality in which the video lottery terminal facility is located.
- (E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.
  - (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
  - (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
  - (3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.
  - (4) Annually, on or before the thirty-first day of January, each video lottery ~~terminal~~ sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit

electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period that information shall be indicated on the annual return.

- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
- (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

- (G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.
- (H) If a casino operator, sports gaming proprietor, or video lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:
  - (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
  - (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.
- (I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 362.07 of this chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

### **362.091 RETURN AND PAYMENT OF TAX**

(A) (1) Unless the provisions of division (A)(2) of this section apply, an annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident and resident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under section 362.051(C) of this chapter when the nonresident or resident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (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 social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

- (3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
- (4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The State of Ohio department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
- (5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period unless the taxpayer's unextended federal income tax return is due after that date, in which case the annual net profit return shall be completed and filed on or before the taxpayer's federal income tax return due date. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator 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.

(3) (a) If a taxpayer receives an extension for filing of a municipal income tax return under 362.094 (A), (B)(C) or (E) of this chapter, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

(b) If a tax administrator violates (3)(a) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to one hundred fifty dollars.

(c) Section (3)(a) and (b) does not apply to an extension received under 362.094 (A) or (C), if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under 362.094 (A), or (C).

(4) With respect to taxpayers to whom section 362.092 of this chapter applies, to the extent any provision in this division conflicts with any provision in section 362.092 of this chapter, the provision in section 362.092 of this chapter prevails.

(H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.

(I) This division shall not apply to payments required to be made under section 362.051(B) of this chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "**THE DATE OF POSTMARK**" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "**SUBMITTED THE PAYMENT**" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 362.051 of this chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality 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 Administrator 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 Administrator 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 Administrator with information that is missing from the return, to contact the Tax Administrator 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 Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

- (L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.
- (M) When income tax returns, reports, or other documents require the signature of a paid tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.
- (N) (1) As used in this division, "**WORKSITE LOCATION**" has the same meaning as in section 362.052 of this chapter.
  - (2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:
    - (a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.
    - (b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.
  - (3) The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.
  - (4) If a person submits an affidavit described in division (N)(2) of this section, the Tax Administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work

being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the Tax Administrator from performing an audit of the person.

### **362.096 REFUNDS**

- (A) Upon receipt of a request for a refund and after audit of such request, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:
  - (1) Overpayments of more than ten dollars;
  - (2) Amounts paid erroneously if the refund requested exceeds ten dollars.
- (B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax return, including any valid extension, was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.
  - (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
  - (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and provide instructions for requesting an assessment that may be appealed under section 362.18 of this chapter.
- (C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:
  - (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
  - (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
  - (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.
- (D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return

or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of section 362.10 of this chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 362.10 of this chapter.

#### **362.14 CONFIDENTIALITY**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(C) A municipal corporation may provide tax information related to municipal income tax revenues derived from a transformational major sport facility mixed-use project district, as authorized under section 123.281 of the Revised Code, to the department of taxation and the fiscal officer of a governmental agency, as defined in division (F) of section 123.28 of the Revised Code, that owns, or holds a sufficient ownership in, a major sports facility located within the territorial boundaries of a transformational major sports facility mixed -use project district.

#### **362.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS**

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax return, including any valid extension was due or ~~the return was filed~~, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

- (a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in section 362.18 of this chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

- (b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.
- (B) Prosecutions for an offense made punishable under this ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in section 362.096 of this chapter.
- (D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.
  - (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under section 362.18 of this chapter, of the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by section 362.096 of this chapter, with interest on that amount as provided by division (D) of that section.
- (E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:
  - (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
  - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.