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Title: To amend various sections of Chapter 361 of the Columbus City Codes in order to address the withholding and payment of taxable income derived from a person's winnings at a casino facility and from video lottery terminal prize awards, and the taxation of lottery winnings.

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Attachments:

Date	Ver.	Action By	Action	Result
8/1/2012	1	CITY CLERK	Attest	
7/31/2012	1	MAYOR	Signed	
7/30/2012	1	COUNCIL PRESIDENT	Signed	
7/30/2012	1	Columbus City Council	Read for the First Time	
7/30/2012	1	Columbus City Council	Waive the 2nd Reading	Pass
7/30/2012	1	Columbus City Council	Approved	Pass

This ordinance will establish the basis for the taxation of prizes, awards and winnings derived from gaming, wagering, sweepstakes and games of chance resulting from play, wagering or activities related to the winning of such income by residents and non-residents of the City. Under this new Ordinance all resident and non-resident individuals shall be subject to the tax on prizes, awards and winnings derived from activities within the City. Additionally, prizes, awards and winnings paid to residents of the City derived from activities outside of the City shall be subject to the tax.

To amend various sections of Chapter 361 of the Columbus City Codes in order to address the withholding and payment of taxable income derived from a person's winnings at a casino facility and from video lottery terminal prize awards, and the taxation of lottery winnings.

WHEREAS, there are facilities located within the city of Columbus that have now been authorized by the Ohio Casino Control Commission and the Ohio Lottery Commission to conduct casino gaming and video lottery terminal games, respectively; and

WHEREAS, Sections 5747.063 and 5747.064 of the Ohio Revised Code provide for the withholding of taxes from a person's winnings at casino facilities and video lottery terminal prize awards, respectively; and

WHEREAS, Chapter 361 of the Columbus City Codes sets forth the requirements and procedures for the deduction and

payment of City income tax on taxable income pursuant to Ohio Revised Code Chapter 718; and

WHEREAS, existing provisions of Chapter 361 do not address taxable income derived from a person's winnings at a casino facility or video lottery terminal prize awards; and

WHEREAS, there is a need to amend Chapter 361 to address the withholding and payment of City income tax on that taxable income; now therefore

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

Section 1. That Section 361.16 of the Columbus City Codes, 1959, be and is hereby amended to read as follows:

361.16 - Taxable income.

"Taxable income" means:

- (a) ~~Wages, salaries, commissions and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.~~
- (b) The net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (c) Prizes, awards and winnings derived from gaming, wagering, sweepstakes and games of chance resulting from play, wagering or activities related to the winning of such income by residents of the city.
- (d) Prizes, awards and winnings derived from gaming, wagering, sweepstakes and games of chance resulting from play, wagering, or activities related to the winning of such income within the city by non-residents.
- (e) Prizes, awards and winnings from a casino facility or casino operator as defined in Ohio Constitution Section 6(c) (9) of Article XV and Ohio Revised Code Section 3772.01 located within the city resulting from play, wagering or activities related to the winning of such income by residents or non-residents.
- (f) Prizes, awards and winnings of residents or non-residents derived from a video lottery terminal facility or licensed video lottery sales agent as authorized in Ohio Revised Code Section 3770.21, where the building and grounds at the facility occupied by the video lottery sales agent, including temporary facilities, in which the terminals are located are within the city.
- (g) Prizes, awards and winnings paid to residents of the city derived from the State lottery and paid by the State Lottery Commission.

Section 2. That Section 361.19 of the Columbus City Codes, 1959, be and is hereby amended to read as follows:

361.19 Imposition of tax.

To provide for the purposes of general municipal operations, maintenance, new equipment, and capital improvements of the city, there is hereby levied a tax at the rate of two and one-half percent (2.5%) per annum upon the following:

- (a) All salaries, wages, commissions and other compensation earned by residents of the city.
- (b) All salaries, wages, commissions, and other compensation earned by nonresidents of the city for work done or services performed or rendered in the city.
- (c) Net profits:
 - (1) On the net profits earned of all unincorporated businesses, professions, or other activities conducted by residents of the city.
 - (2) On the net profits earned of all unincorporated businesses, professions, or other activities conducted in the city by nonresidents.
 - (3) For the purposes of paragraphs (c)(1) and (c)(2) of this section, an association shall be taxed as an entity, on the net profits of the association derived from work done or services performed or rendered and business or

other activities conducted in the city, whether or not such association has its principal or any place of business located in the city, effective for all accounting periods commencing on or after January 1, 1991.

- (4) For the purposes of paragraph (c)(1) of this section, a resident of the city who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under paragraph (c)(3) of this section, effective for all accounting periods commencing on or after January 1, 1991.
- (d) On the net profits of all corporations, estates, and trusts, derived from work done or service performed or rendered and business or other activities conducted in the city, whether or not such corporations, estates, and trusts have their principal or any place of business located in the city.
- (e) On a resident's entire share, whether distributed or not, of the net profits of a Subchapter S corporation as defined in Section 1361 of the Internal Revenue Code. If a resident is a shareholder in two or more Subchapter S corporations to be included in the same return, the resident's share of the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the resident's share of the profits of another Subchapter S corporation for purposes of arriving at overall net profits derived from Subchapter S corporations. Credit on the tax imposed by this paragraph shall be given for tax paid on the resident's share of the net profits of a Subchapter S corporation under Sections 361.19(d) and 361.33 of this chapter. The tax imposed under this paragraph is effective for all accounting periods commencing on or after January 1, 2001.
- (f) On or after June 1, 2012, all prizes, awards and winnings derived from gaming, wagering, sweepstakes and games of chance resulting from play, wagering or activities related to the winning of such income by residents of the City
- (g) On or after June 1, 2012, all prizes, awards and winnings derived from gaming, wagering, sweepstakes and games of chance resulting from play, wagering or activities related to the winning of such income within the city by non-residents.
- (h) On or after June 1, 2012, all prizes, awards and winnings from a casino facility or casino operator as defined in Ohio Constitution Section 6(c)(9) of Article XV and Ohio Revised Code Section 3772.01, Ohio Revised Code located within the city resulting from play, wagering or activities related to the winning of such income by residents or non-residents.
- (i) On or after June 1, 2012, all prizes, awards and winnings of residents or nonresidents derived from a video lottery terminal facility or video lottery terminal licensee as defined in Section 3770.21 Ohio Revised Code, where the building and grounds at the facility occupied by the licensee, including temporary facilities, in which the terminals are located are within the city.
- (j) On or after June 1, 2012, all prizes, awards and winnings paid to residents of the city derived from the State lottery and paid by the State Lottery Commission.

The tax upon all of the income specified in paragraphs (a), (b) , (c), (d) and (e) hereof shall remain in effect for the purpose of filing returns and collection of the tax at the rate of one (1) percent with regard to all income earned prior to January 1, 1971; at the rate of one and one-half percent (1.5) with regard to all income earned after on or after January 1, 1971 and prior to January 1, 1983; at the rate of two percent (2) with regard to income earned after January 1, 1983 and prior to October 1, 2009; and at the rate of 2 and one-half (2.5) percent with regard to all income earned on or after October 1, 2009.

Section 3. That Section 361.21 of the Columbus City Codes, 1959, be and is hereby amended to read as follows:

361.21 Levy of tax.

The income tax at the rate of one and one-half (1.5) percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on or before December 31, 1982 and with respect to the net profits of the businesses, professions or other activities earned on or before December 31, 1982. The income tax at the rate of two (2.0) percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation

earned on and after January 1, 1983, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1983. The income tax at the rate of two and one-half (2.5) percent shall be levied, collected and paid with respect to the salaries, wages and commissions and other compensation earned on or after October 1, 2009 and with respect to the net profits of business, professions or other activities earned on or after October 1, 2009. Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax at the rate of two (2.0) percent shall be applied to that portion of the fiscal year occurring on or before September 30, 2009 and the tax at the rate of two and one-half (2.5) percent shall be applied to that portion of the fiscal year occurring on and after October 1, 2009. On or after June 1, 2012, the income tax rate of two and one-half (2.5) percent shall be levied, collected and paid with respect to: all prizes, awards and winnings of residents of the city derived from gaming, wagering, sweepstakes and games of chance; all prizes, awards and winnings of non-residents derived from gaming, wagering, sweepstakes and game of chance related to the winning of such income within the city; all prizes, awards and winnings of residents and nonresidents from a casino facility or casino operator located within the city; all prizes, awards and winnings of residents and nonresidents derived from video lottery terminal facilities or video lottery terminal sales agents; and all prizes, awards and winnings paid to residents of the city by the State Lottery Commission.

Section 4. That Section 361.22 of the Columbus City Codes, 1959, be and is hereby amended to read as follows:

361.22 - Return and payment of tax.

- (a) Each taxpayer who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return on or before April 15 of each year with the city auditor on a form furnished by or obtainable from the city auditor, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the city auditor may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the 15th day of the fourth month after the close of said fiscal year or other period.
- (b) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation or the net profits from a resident's share in a Subchapter S corporation. However, if a taxpayer is engaged in two (2) or more taxable unincorporated business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from unincorporated business activities. Commencing with taxable years beginning subsequent to December 31, 2000, the net loss from a resident's share of a Subchapter S corporation may not be used to offset salaries, wages, commissions or other compensation or the net profits from an unincorporated business activity. However if a resident taxpayer is a shareholder in two (2) or more Subchapter S corporations to be included in the same return, the net loss of one (1) Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from a resident's share in Subchapter S corporations. A husband and wife, in any taxable year, may elect to file separate or joint returns. Losses from gaming, wagering, sweepstakes, and games of chance shall not be used to offset any sources of taxable income except those losses allowed for federal income tax purposes from the operation of a trade or business.
- (c) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.
- (d) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporation may not be taken into consideration in computing net profits or the business allocation percentage formula of another.
- (e) The taxpayer making a return shall, at the time of the filing thereof, pay to the city auditor the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of city codes 361.24, or where any portion of said tax has been paid by the

taxpayer pursuant to the provisions of city codes 361.25, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with city codes 361.33 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

- (f) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.
- (g) The city auditor shall have the authority to extend the time for filing of the annual return provided, the request of the taxpayer for extension is made in writing and received on or before the original due date of the return. The extension period requested may not exceed six (6) months. The city auditor may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon on or before the original due date. No penalty shall be assessed, in those cases in which the return is filed and the final tax paid within the period as extended.
- (h) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following said Saturday, Sunday or federal holiday without penalty.

Section 5. That Section 361.24 of the Columbus City Codes, 1959, be and is hereby amended to read as follows:

361.24 Collection at source.

- (a) Each employer within or doing business within the City, shall deduct at the time of payment of such salaries, wages, commissions or other compensation as defined in Section 361.16 of this Chapter, the tax of two (2) percent of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the City in accordance with the payment schedule prescribed by subsection (c) hereof. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Every employer or officer of a corporation is deemed to be a trustee for this municipality in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.
- (b) In the case of employees who are non-resident professional athletes, the deduction and withholding of personal service compensation shall attach to the entire amount of wages, salaries and other compensation received for games that occur in the taxing community. In the case of a non-resident athlete not paid specifically for the game played in a taxing community, the following apportionment formula must be used: The wages, salaries and other compensation earned and subject to tax is the total income earned during the taxable year, including incentive payments, signing bonuses, reporting bonuses, incentive bonuses, roster bonuses and other extras, multiplied by a fraction, the numerator of which is the number of exhibition, regular season, and post-season games the athlete played (or was available to play for his team, as for example, with substitutes), or was excused from playing because of injury or illness, in the taxing community during the taxable year, and the denominator of which is the total number of exhibition, regular season, and post season games which the athlete was obligated to play under contract or otherwise during the taxable year, including games in which the athlete was excused from playing because of injury or illness. Exhibition games are only those games played before a paying audience, and played against another professional team from the same professional league. In the case of non-resident salaried athletic team employees who are not professional athletes, deduction and withholding shall attach to wages, salaries and other compensation earned for personal services performed in the City.
- (c) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:
 - (1) Semimonthly payments of the taxes deducted are to be made by an employer if (1) the total taxes deducted in the prior calendar year were \$12,000 or more, or (2) the amount of taxes deducted for any month in the preceding quarter exceeded \$1,000. Such payment shall be paid to the City within five banking days after the fifteenth and the last day of each month.

- (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than \$12,000 but more than \$2,399 or if taxes withheld during any month for the preceding quarter exceeded \$200. Commencing with taxable years subsequent to December 31, 1998 monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than \$12,000 but more than \$3,599 or if taxes withheld during any month for the preceding quarter exceeded \$300. Such payments shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this paragraph need not be paid until the last day of the month following such quarter.
- (3) All employers not required to make semimonthly or monthly payments of taxes withheld under (1) and (2) of this subsection shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (d) Each employer who maintains a place of business in the City and another branch within the metropolitan area of the City, must also withhold the tax from employees residing in the City but working at the employer's metropolitan area branch even though the payroll records and place of payment are outside the City.
- (e) The employer shall make and file a return on a form furnished by the City Auditor, showing the amount of tax deducted by said employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the City Treasurer. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under Chapter 361 is the salaries, wages, commissions and other compensation returned by said employer.
- (f) Each employer, on or before the 31st day of January, unless written request for thirty (30) days extension is made to and granted by the City Auditor, following any calendar year in which such deductions have been made, or should have been made by an employer, shall file with the City Auditor an information return (Columbus Withholding Statement of Wages paid, and Columbus Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid said employee during the year and the amount of City income tax withheld from each employee.
- (g) Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.
- (h) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.
- (i) Each casino operator shall deduct and withhold the required amount of tax due from a person's winnings and timely remit said taxes in accordance with Ohio Revised Code Section 5747.063.
- (j) Each video lottery terminal sales agent shall deduct and withhold the required amount of tax due from a person's prize award from a video lottery terminal and timely remit said taxes in accordance with Ohio Revised Code Section 5747.064.
- (k) Each casino operator and video lottery terminal sales agent shall make and file a return on a form furnished by the City Auditor, showing the amount of tax deducted from a person's winnings and prize award and paid to the City Treasurer in accordance with Ohio Revised Code Sections 5747.063 and 5747.064. Such casino operator's return and video lottery terminal sales agent's return shall be accepted as the return required of each person whose winnings are subject to the tax under Chapter 361.

Section 6. That existing Sections 361.16, 361.19, 361.21, 361.22 and 361.24 of the Columbus City Codes, 1959, are hereby repealed and replaced as provided in Sections 1 through 5 herein.

Section 7. That this ordinance shall take effect and be in force from and after the earliest date allowed by law.