



City of Columbus

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

Legislation Text

File #: 0477-2023, **Version:** 1

Am Sub HB 29, 134th General Assembly, legalizes and regulates sports gaming (betting) in Ohio, effective January 1, 2023.

Under continuing law, Columbus income tax is imposed on gambling winnings. Current law requires that municipal income tax is withheld from patron winnings at a casino facility or video lottery terminal and remitted to the municipality in which the casino facility or video lottery terminal is located whenever the amount of patron winnings must be reported to the Internal Revenue Service for federal income tax purposes (generally, if the winnings are \$600 or more). Am Sub HB 29 extends the requirement to withhold and remit municipal income tax to sports gaming facilities, sports gaming businesses and lottery sports gaming offered by in video lottery terminal facilities as defined in the Act.

The purpose of this Ordinance is to amend existing sections 362.053 and 362.07 of Chapter 362 to include withholding and remitting of Columbus income tax on certain winnings from sports betting.

FISCAL IMPACT: No funding is required for this legislation.

Emergency Justification: The Act requires that city tax withheld on patron winnings from sports betting be remitted monthly-on the tenth day of each month the amount deducted and withheld during the preceding calendar month. Any amounts withheld in January 2023 are scheduled to be remitted on or before February 10, 2023. Emergency action is requested to ensure that amendments to Sections 362.053 and 362.07 are timely made to avoid delay in receiving income tax revenue.

To amend Sections 362.053 and 362.07 of Chapter 362 of the Columbus City Codes to include provisions in Am Sub HB 29, 134th General Assembly, that authorize sports gaming (betting) in Ohio and require withholding and remitting of Columbus income tax on certain patron winnings; and to declare an emergency.

WHEREAS, Am Sub HB 29, 134th General Assembly, legalized and regulates sports gaming (betting) in Ohio, effective January 1, 2023; and

WHEREAS, the Act requires that Columbus income tax be withheld and remitted to the City by sports gaming facilities, sports gaming businesses and video lottery terminal facilities that offer sports gaming on certain patron winnings resulting from sports betting; and

WHEREAS, an emergency exists in the usual daily operation of the City Auditor's Office, Tax Division such that it is necessary to amend sections 365.053 and 365.07 to include provisions relating to patron winnings from sports gaming facilities, sports gaming businesses and lottery sports gaming offered by video lottery terminal facilities to ensure that the amendments are timely made to avoid delay in receiving income tax revenue; **NOW THEREFORE**,

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

SECTION 1. That sections 362.053 and 362.07 of Chapter 362 of the Columbus City Codes are hereby amended as follows:

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 the same meaning as in section 3770.23 of the Revised Code.

- (A) ~~The Municipality shall require 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 Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminal sales on behalf of the state 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 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, ~~the a~~ 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 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.

362.07 DECLARATION OF ESTIMATED TAX

- (A) As used in this section:
- (1) **"ESTIMATED TAXES"** means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for the municipal corporation's income tax for the current taxable year.
 - (2) **"TAX LIABILITY"** means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
 - (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the 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.
 - (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - (d) Taxes withheld by a casino operator ~~or by a~~ video lottery sales agent, or type B sports gaming proprietor under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of section 362.091 of this chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.
 - (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
- (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;
 - (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;
 - (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;
 - (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.
 - (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 362.091 of this chapter.
 - (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless

extended pursuant to division (G) of section 5747.08 of the Ohio Revised Code.

- (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest shall be imposed pursuant to section 362.10 of this chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
 - (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
 - (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under section 362.091 of this chapter for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
- (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

SECTION 2. That existing sections 362.053 and 362.07 of Chapter 362 of the Columbus City Codes are hereby repealed.

SECTION 3. That, for the reasons stated in the preamble hereto, which is hereby made a part hereof, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage or approval

by the Mayor or ten days after its passage if the Mayor neither approves nor vetoes the same.