

# MEMORANDUM

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TO: PUBLIC LAW GROUP | FROM: CHRISTIAN ONDREY | DATE: SEPTEMBER 6, 2016 | RE: MUNICIPAL INCOME TAXATION, AMENDMENTS

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## SYNOPSIS

On September 14, 2016, 131 Senate Bill 172 (“S.B. 172”) took effect. S.B. 172 changes a few of the requirements in Chapter 718 of the Ohio Revised Code regarding municipal income taxation. This memorandum summarizes the new requirements that result from S.B. 172 since a municipality’s local income tax regulations must comply with Chapter 718 of the Revised Code.

The City should amend its Taxation Code, Chapter 891 of the Codified Ordinances before or soon after September 14, 2016 so as to comply with at least one of these new requirements. Although the Regional Income Tax Agency (“RITA”) which collects and administers Hudson’s income taxes says it will begin administering Hudson’s Code under the new state code requirements as of September 14, Hudson’s Taxation Code should be amended soon and before the end of the year since its ordinances conflict with when monthly and semimonthly income tax withholding payments are now considered timely under S.B. 172. RITA has notified employers of the new amendments in writing and did so during the week of August 29<sup>th</sup>. RITA had planned to notify its contracting municipalities of this changes This is noted further below.

## S.B. 172

S.B. 172 changes five relatively minor requirements in Chapter 718 of the Ohio Revised Code. These changes are outlined and explained as follows:

- Existing law requires withholding payments be *received* by the tax administrator by the due date to be considered timely. After S.B. 172 takes effect, monthly withholding payments are considered timely once *postmarked* to the tax administrator by the due date.<sup>1</sup> *This applies to upcoming monthly payments due by September 15, 2016.*
- Existing law makes quarterly withholding payments due on the *fifteenth day* of the month following the *end* of each calendar quarter. After S.B. 172 takes effect, quarterly withholding payments are due by the *last day* of the month following the

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<sup>1</sup> S.B. 172 / R.C. 718.03(B)(1)(a): “Taxes required to be deducted and withheld shall be remitted monthly to the tax administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipal corporation in any month of the preceding calendar quarter exceeded two hundred dollars. ~~Payments~~ **Payment** under division (B)(1)(a) of this section shall be made ~~so that the payment is received by~~ to the tax administrator not later than fifteen days after the last day of each month.”

*last day* of the calendar quarter.<sup>2</sup> This means the upcoming third quarter payments are now due on October 31, 2016.

- Existing law requires semimonthly withholding payments be *received by* the tax administrator by the due date to be considered timely. After S.B. 172 takes effect, semimonthly withholding payments are considered timely once *postmarked* to the tax administrator by the due date.<sup>3</sup> *Hudson's codified ordinance does not have separate sections regarding semimonthly payments.*
- S.B. 172 deletes additional "received" wording elsewhere in existing law so as to coincide with the changes regarding when monthly and semi-monthly withholding payments are now due.<sup>4</sup>
- Existing law generally considers a municipal income payment remitted electronically to have been *made* on the date the payment is credited to an account designated by the tax administrator to receive such payments. After S.B. 172 takes effect, such a payment is considered to have been *made* on the date of the timestamp assigned by the first electronic system receiving the payment.<sup>5</sup> This amendment should be accommodated in Hudson's Taxation Code.

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<sup>2</sup> S.B. 172 / R.C. 718.03(B)(1)(b): "Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the tax administrator not later than the ~~fifteenth~~ **last day** of the month following the ~~end~~ **last day** of each calendar quarter."

<sup>3</sup> S.B. 172 / R.C. 718.03(B)(2)(a): "Remit taxes deducted and withheld semimonthly to the tax administrator if the total taxes deducted and withheld or required to be deducted and withheld on behalf of the municipal corporation in the preceding calendar year exceeded eleven thousand nine hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipal corporation in any month of the preceding calendar year exceeded one thousand dollars. The payment under division (B)(2)(a) of this section shall be made ~~so that the payment is received by~~ **to** the tax administrator not later than one of the following:"

<sup>4</sup> S.B. 172 / R.C. 718.05(I)(1): "This division shall not apply to payments ~~required to be made under division (B)(1)(a) or (2)(a) of section 718.03 of the Revised Code.~~"

<sup>5</sup> S.B. 172 / R.C. 718.05(I)(2): "If a payment ~~under this chapter is required to be made by electronic funds transfer, the payment is shall be 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~~ **on the date of the timestamp assigned by the first electronic system receiving that payment.**"