

891.02. - Definitions.

- (a) 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 Ohio R.C. Title LVII, 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 Ohio R.C. Title LVII 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 Ohio R.C. Title LVII.
- (b) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.
- (c) As used in this chapter:
  - (1) "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 (c)(24) ~~D~~ E. 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:
    - A. 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.
    - B. Add an amount equal to five percent (5%) of intangible income deducted under division (c)(1)A. 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;
    - C. 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;
    - D.
      - 1. Except as provided in division (c)(1)D.2. 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;
      - 2. Division (c)(1)D.1. 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.
    - E. Add taxes on or measured by net income allowed as a deduction in the computation of Federal taxable income;
    - F. 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;
    - G. 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 Ohio R.C. 4313.02;
    - H. ~~1. Except as limited by divisions (c)(1)H.2., 3. and 4. 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 (5) 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.~~

~~2. No person shall use the deduction allowed by division (c)(1)H. of this section to offset qualifying wages.~~

~~3. a. For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (c)(1)H.1. of this section.~~

~~b. For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by division (c)(1)H.1. of this section.~~

~~4. Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (c)(1)H. of this section.~~

~~5. Nothing in division (c)(1)H.3.a. 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 (c)(1)H.3.a. of this section. To the extent that an amount of net operating loss that was not fully utilized in one (1) or more taxable years by operation of division (c)(1)H.3.a. 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 (c)(1)H.3.a. of this section shall apply to the amount carried forward. Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.~~

I. 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 Section 891.05(v)(3)B.

J. 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 Section 891.05(v)(3)B.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (c)(48)B. of this section, is not a publicly traded partnership that has made the election described in division (c)(24)~~D-E~~. 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.

Nothing in division (c)(1) 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.

(2) A. "Assessment" means 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 that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 891.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

- B. "Assessment" does not include a notice denying a request for refund issued under Section 891.09(c)(3), 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 (c)(2)A. of this section.
- (3) "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.
  - (4) "Board of Tax Review" or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of Municipal income tax matters, means the entity created under Section 891.21.
  - (5) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.
  - (6) "Casino operator" and "casino facility" have the same meanings as in Ohio R.C. 3772.01.
  - (7) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to Ohio R.C. 5703.056.
  - (8) "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.
  - (9) "Domicile" means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one (1) residence but not more than one (1) domicile.
  - (10) "Employee" means an individual who is an employee for Federal income tax purposes.
  - (11) "Employer" means a person that is an employer for Federal income tax purposes.
  - (12) "Exempt income" means all of the following:
    - A. 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.
    - B. Intangible income.
    - C. 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 (c)(12)C. of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
    - D. The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
    - E. Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) for the taxable year. Such compensation in excess of one thousand dollars (\$1,000.00) 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.

- F. Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.
- G. Alimony and child support received.
- H. Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.
- I. Income of a public utility when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30. Division (c)(12)I. of this section does not apply for purposes of Ohio R.C. Chapter 5745.
- J. 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.
- K. Compensation or allowances excluded from Federal gross income under section 107 of the Internal Revenue Code.
- L. Employee compensation that is not qualifying wages as defined in division (c)(35) of this section.
- M. 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.
- N. An S corporation shareholder's share of net profits of the S corporation, other than any part of the 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.
- O. All of the income of individuals under eighteen (18) years of age.
- P.
  - 1. Except as provided in divisions (c)(12)P.2., 3. and 4. of this section, qualifying wages described in Section 891.04(c)(2) or (c)(5) to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
  - 2. The exemption provided in division (c)(12)P.1. 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.
  - 3. The exemption provided in division (c)(12)P.1. of this section does not apply to qualifying wages that an employer elects to withhold under Section 891.04(c)(4)B.
  - 4. The exemption provided in division (c)(12)P.1. of this section does not apply to qualifying wages if both of the following conditions apply:
    - a. For qualifying wages described in Section 891.04(c)(2), 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 Section 891.04(c)(5), 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;

- b. The employee receives a refund of the tax described in division (c)(12)P.4.a. of this section on the basis of the employee not performing services in that municipal corporation.
- Q.
  - 1. Except as provided in division (c)(12)Q.2. or 3. 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 (20) days in a taxable year.
  - 2. The exemption provided in division (c)(12)Q.1. of this section does not apply under either of the following circumstances:
    - a. The individual's base of operation is located in the municipal corporation.
    - b. 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 Municipality as a professional athlete, professional entertainer, or public figure. For purposes of division (c)(12)Q.2.b. of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 891.04(c).
  - 3. Compensation to which division (c)(12)Q. 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.
  - 4. For purposes of division (c)(12)Q. 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.
- R. 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 Ohio R.C. 709.023 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.
- S. Income the taxation of which is prohibited by the constitution or laws of the United States.  
 Any item of income that is exempt income of a pass-through entity under division (c) of this section 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.
- (13) "Form 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) "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 or for filing a refund claim.
- (15) "Gross receipts" means the total revenue derived from sales, work done, or service rendered.
- (16) "Income" means the following:
  - A.
    - 1. For residents, all income, salaries, qualifying wages, commissions, 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 (c)(24) ~~D~~ E. of this section.

2. For the purposes of division (c)(16)A.1. of this section:
    - a. 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 (5) 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 (c)(16)A.4. of this section;
    - b. 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.
  3. Division (c)(16)A.2. 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 unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (c)(12)N. or (c)(16)E. of this section.
  4. 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.
  - B. 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 municipal corporation, 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.
  - C. For taxpayers that are not individuals, net profit of the taxpayer;
  - D. Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for Federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.
- (17) "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 Ohio R.C. Chapter 5701, and patents, copyrights, trademarks, tradenames, 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.
- (18) "Internal Revenue Code" has the same meaning as in Ohio R.C. 5747.01.
- (19) "Limited liability company" means a limited liability company formed under Ohio R.C. Chapter 1705 or under the laws of another state.
- (20) "Municipal corporation" includes a joint economic development district or joint economic development zone that levies an income tax under Ohio R.C. 715.691, 715.70, 715.71, or 715.74.
- (21) A. "Municipal taxable income" means the following:

1. For a person other than an individual, income ~~reduced by exempt income to the extent otherwise included in income and then, as applicable,~~ apportioned or situated to the Municipality under Section 891.03, ~~and further as applicable,~~ reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
  2.
    - a. 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 (c)(21)B. of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.
    - b. For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under Section 891.03, then reduced as provided in division (c)(21)B. of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- B. In computing the Municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (c)(21)A.2.a. or (c)(21)B. 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, but to the extent the expenses do not relate to exempt income. 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 and are not related to exempt income.
- (22) "Municipality" and/or "City" means the same as the City of Hudson, Ohio. If the terms are capitalized in the chapter they are referring to Hudson, Ohio. If not capitalized they refer to a municipal corporation other than Hudson, Ohio.
- (23) "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.
- (24) ~~A. "Net profit" for a person other than an individual means adjusted Federal taxable income.~~  
~~B. A.~~ A. "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 division (c)(24)~~BA.~~ of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (c)(~~424~~)~~HC.~~ of this section.

B. "Net profit" for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C)(24)(c) of this section.

C.(1) The amount of such operating loss shall be deducted from net profit 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 (5) 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.

(2) No person shall use the deduction allowed by division (C)(24)(c) of this section to

offset qualifying wages.

(3)(a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(24)(c) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(24)(c) of this section without regard to the limitation of division (C)(24)(C)(3)(a) of this section.

(4) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (C)(24)(C) of this section.

(5) Nothing in division (C)(24)(C)(3)(a) 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 (C)(24)(C)(3)(a) 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 (C)(24)(C)(3)(a) 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 (C)(24)(C)(3)(a) of this section shall apply to the amount carried forward.

~~C~~ **D** For the purposes of this chapter, and notwithstanding division (c)(24)~~AB~~. 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.

~~D~~ **E**. 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 by the Municipality, may elect to be treated as a C corporation for the Municipality. The election shall be made on the annual return for the Municipality. The Municipality will treat the publicly traded partnership as a C corporation if the election is so made.

- (25) "Nonresident" means an individual that is not a resident.
- (26) "Ohio Business Gateway" means the online computer network system, created under Ohio R.C. 125.30, that allows persons to electronically file business reply forms with State agencies and includes any successor electronic filing and payment system.
- (27) "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.
- (28) "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.
- (29) "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.



- (30) "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.
- (31) "Postal service" means the United States postal service.
- (32) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of Ohio R.C. 5703.056.
- (33)
  - A. "Pre-2017 net operating loss carryforward" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in the Municipality in future taxable years.
  - B. For the purpose of calculating Municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (34) "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.
- (35) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
  - A. Deduct the following amounts:
    - 1. 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.
    - 2. 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.
    - 3. Any amount included in wages that is exempt income.
  - B. Add the following amounts:
    - 1. Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
    - 2. 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 (c)(35)B.2. of this section applies only to those amounts constituting ordinary income.
    - 3. 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 (c)(35)B.3. of this section applies only to employee contributions and employee deferrals.
    - 4. Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
    - 5. 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.
    - 6. Any amount not included in wages if all of the following apply:
      - a. For the taxable year the amount is employee compensation that is earned outside 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;

- b. For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
- c. For no succeeding taxable year will the amount constitute wages; and
- d. For any taxable year the amount has not otherwise been added to wages pursuant to either division (c)(35)B. of this section or Ohio R.C. 718.03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

(36) "Related entity" means any of the following:

- A. 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 percent (50%) of the value of the taxpayer's outstanding stock;
- B. 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 percent (50%) of the value of the taxpayer's outstanding stock;
- C. 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 (c)(36)D. of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock;
- D. The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (c)(36)A. to C. of this section have been met.

(37) "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 percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in section 1563(e) of the Internal Revenue Code.

(38) "Resident" means an individual who is domiciled in the municipal corporation as determined under Section 891.03(e).

(39) "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.

(40) "Schedule C" means Internal Revenue Service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "Schedule E" means Internal Revenue Service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "Schedule F" means Internal Revenue Service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(43) "Single member limited liability company" means a limited liability company that has one (1) direct member.

(44) "Small employer" means any employer that had total revenue of less than five hundred thousand dollars (\$500,000.00) 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; compensation; 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.

(45) (a) "Tax Administrator" means the individual charged with direct responsibility for administration of an income tax levied by the Municipality in accordance with this chapter. Tax Administrator does not include the state tax commissioner.

(b) "Tax commissioner" means the tax commissioner appointed under section 121.03 of the Revised Code.

(46) "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.

(47) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(48) A. "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 or, except as provided in division (c)(48)B.1. of this section, a disregarded entity.

B. 1. A single member limited liability company that is a disregarded entity for Federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

- a. The limited liability company's single member is also a limited liability company.
- b. The limited liability company and its single member were formed and doing business in one (1) or more Ohio municipal corporations for at least five (5) years before January 1, 2004.
- c. Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of Ohio R.C. 718.01 as that section existed on December 31, 2004.
- d. The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
- e. The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

2. For purposes of division (c)(48)B.2. of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars (\$400,000.00).

(49) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in Sections 891.09, 891.12, 891.13, 891.19(B), 891.20, 891.21, and Ohio R.C. 5717.011 and 5717.03, and the responsibilities of taxpayers to file, report, withhold, remit, and pay Municipal income tax and otherwise comply with Ohio R.C. Chapter 718 and resolutions, ordinances, and rules and

regulations adopted by the Municipality for the imposition and administration of a Municipal income tax.

- (50) "Video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.
- (51) "Video lottery terminal sales agent" means a lottery sales agent licensed under Ohio R.C. Chapter 3770 to conduct video lottery terminals on behalf of the State pursuant to Ohio R.C. 3770.21.

(Ord. No. 15-179, 12-1-2015)

891.05. - Annual return; filing.

- (a) An annual Municipal income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.
  - (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 891.05 when the nonresident 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 the Municipality.
  - (2) Retirees having no Municipal taxable income for Municipal income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal taxable income taxable to the Municipality, at which time the retiree shall be required to comply with all applicable provisions of this chapter.
- (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, 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.
- (d) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.
- (e) The Municipality shall permit spouses to file a joint return.
- (f)
  - (1) Each return required to be filed under this division 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. The return 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) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return and amended return, copies of 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 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-1040; and, with respect to an amended tax return, any other documentation necessary to support 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) The Tax Administrator may require a taxpayer that is not an individual 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.

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.

- (4) After a taxpayer files a tax return, the Tax Administrator may 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.
- (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 Ohio R.C. 5747.08. 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. No remittance is required if the net amount due is ten dollars (\$10.00) or less.
- B. Except as otherwise provided in this chapter, each annual net profit 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. 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. No remittance is required if the net amount due is ten dollars (\$10.00) or less.
- (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's Federal income tax return shall automatically receive an extension for the filing of the Municipality's income tax return. The extended due date of the Municipality's income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- A. A copy of the Federal extension request shall be included with the filing of the Municipality's income tax return.
- B. A taxpayer that has not requested or received a six-month extension for filing the taxpayer's Federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's Municipal income tax return. If the request is received by the Tax Administrator on or before the date the Municipal income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.
- (3) If the Tax Commissioner extends for all taxpayers the date for filing State income tax returns under division (G) of Ohio R.C. 5747.08, a taxpayer shall automatically receive an extension for the filing of the Municipality's income tax return. The extended due date of the Municipality's income tax return shall be the same as the extended due date of the State income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality, the Tax Administrator may require taxpayers to file returns and

make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

- (5) To the extent that any provision in this division (g) of this section conflicts with any provision in divisions (n), (o), (p), or (q) of this section, the provisions in divisions (n), (o), (p), or (q) prevail.
- (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 net amount due is ten dollars (\$10.00) 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) of this section, unless the provisions of division (H)(3) apply.

(3)(a) A person may notify the Tax Administrator that the person does not expect to be a taxpayer subject to the Municipality income tax ordinance for a taxable year if both the following apply:

(1) The person was required to file a tax return with the Municipality for the immediately preceding taxable year because the person performed services at a worksite location (as defined in Section 4(C)(1)(g)) within the Municipality.

(2) The person no longer provides services in the Municipality and does not expect to be subject to the Municipality income tax for the taxable year.

(b) 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 Municipality. The affidavit shall also include the following statement: "The affiant has no plans to perform any services within the Municipality, make any sales in the Municipality, or otherwise become subject to the tax levied by the Municipality during the taxable year. If the affiant does become subject to the tax levied by the Municipality for the taxable year, the affiant agrees to be considered a taxpayer and to properly comply as a taxpayer with the Municipality income tax ordinance and rules and regulations." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (H)(3)(b) the Tax Administrator shall not require the person to file and 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.

(d) Nothing in division (H)(3) of this section prohibits the Tax Administrator from performing an audit of the person.

- (i) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.
- (j) Taxes withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 891.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the Municipality, 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 division 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.

- (l) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the Municipality, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the Municipality or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and any of the Municipality's ordinances, resolutions, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

- (m)
  - (1) Any taxpayer subject to Municipal income taxation with respect to the taxpayer's net profit from a business or profession may file a Municipal income tax return, estimated Municipal income tax return, or extension for filing a Municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.
  - (2) Any employer, agent of an employer, or other payer may report the amount of Municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
  - (3) Nothing in this section affects the due dates for filing employer withholding tax returns.

Extension for Service in or for the Armed Forces.

- (n) Each member of the national guard of any state and each member of a reserve component of the Armed Forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the Armed Forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality during the period of the member's or civilian's duty service, and for one hundred eighty (180) days thereafter. The application shall be filed on or before the one-hundred-eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.
- (o)
  - (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one-hundred-eighty-first day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
  - (2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipal corporation before the one-hundred-eighty-first day after the applicant's active duty or service terminates.
  - (3) Taxes paid pursuant to a contract entered into under division (o)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (p)
  - (1) Nothing in this division denies to any person described in this division the application of divisions (n) and (o) of this section.
  - (2)
    - A. A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with this chapter. The length of any extension granted under division (p)(2)A. of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a

reserve component of the Armed Forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the Armed Forces.

- B. Taxes whose payment is extended in accordance with division (p)(2)A. of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (c)(2)A. of this section in calculating the penalty or interest due on any unpaid tax.
- (q) For each taxable year to which division (n), (o), or (p) of this section applies to a taxpayer, the provisions of divisions (o)(2) and (o)(3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Consolidated Municipal Income Tax Return.

- (r) As used in this section:
- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one (1) incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this State, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
  - (2) "Consolidated Federal income tax return" means a consolidated return filed for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
  - (3) "Consolidated Federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated Federal income tax return, before consideration of net operating losses or special deductions. "Consolidated Federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (r)(1) of this section.
  - (4) "Incumbent local exchange carrier" has the same meaning as in Ohio R.C. 4927.01.
  - (5) "Local exchange telephone service" has the same meaning as in Ohio R.C. 5727.01.
- (s) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated Municipal income tax return for a taxable year if at least one (1) member of the affiliated group of corporations is subject to the Municipality's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated Federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under Federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated Municipal income tax returns under division (s)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated Municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated Municipal income tax return election period in effect under division (s)(1) of this section. The election to discontinue filing a consolidated Municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
  - (3) An election made under division (s)(1) or (s)(2) of this section is binding on all members of the affiliated group of corporations subject to a Municipal income tax.



- (t) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated Federal income tax return for a taxable year shall file a consolidated Municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the Municipality. A taxpayer that is required to file a consolidated Municipal income tax return for a taxable year shall file a consolidated Municipal income tax return for all subsequent taxable years, unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.
- (u) A taxpayer shall prepare a consolidated Municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated Federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.
- (v)
  - (1) Except as otherwise provided in divisions (v)(2), (v)(3), and (v)(4) of this section, corporations that file a consolidated Municipal income tax return shall compute adjusted Federal taxable income, as defined in Section 891.02, by substituting "consolidated Federal taxable income" for "Federal taxable income" wherever "Federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
  - (2) No corporation filing a consolidated Municipal income tax return shall make any adjustment otherwise required under Section 891.02(c)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated Federal taxable income.
  - (3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated Federal taxable income for a taxable year, the corporation filing a consolidated Municipal income tax return shall do one (1) of the following with respect to that pass-through entity's net profit or loss for that taxable year:
    - A. Exclude the pass-through entity's net profit or loss from the consolidated Federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 891.05(r) through (y), exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the Municipality. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated Federal taxable income of the affiliated group.
    - B. Include the pass-through entity's net profit or loss in the consolidated Federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 891.05(r) through (y), include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the Municipality. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated Federal taxable income of the affiliated group.
  - (4) If the net profit or loss of a pass-through entity having less than eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated Federal taxable income for a taxable year, all of the following shall apply:
    - A. The corporation filing the consolidated Municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated Federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 891.05(r) through (y), exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the Municipality;

- B. The pass-through entity shall be subject to Municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated Federal taxable income of the affiliated group.
- (w) Corporations filing a consolidated Municipal income tax return shall make the computations required under Section 891.05(r) through (y) by substituting "consolidated Federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.
- (x) Each corporation filing a consolidated Municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the Municipality in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one (1) or more members of such an affiliated group.
- (y) Corporations and their affiliates that made an election or entered into an agreement with the Municipality before January 1, 2016, to file a consolidated or combined tax return with the Municipality may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

(Ord. No. 15-179, 12-1-2015; [Ord. No. 16-150](#), § 2, 9-20-2016)

891.07. - Estimated taxes.

- (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 Municipality's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to the Municipality 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 (\$200.00). For the purposes of this section:
- A. Taxes withheld for the Municipality from qualifying wages shall be considered as paid to the Municipality in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they 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 (1) date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve (12) months shall make a declaration under rules prescribed by the Tax Administrator.
- (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of Municipal income tax returns under Section 891.05(g) or on or before the fifteenth day of the fourth month 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, 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 percent (22½%) 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 percent (45%) 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 percent (67½%) of the tax liability for the taxable year;
  - D. ~~On or before the fifteenth day of the first month of the following taxable year, ninety percent (90%) of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.~~
- (2) 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.
- (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 891.05.
- (d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 891.18 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 (22½%) percent 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 percent (45%) 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 percent (67½%) 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 percent (90%) 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 percent 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 percent (100%) 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 (12) months and the taxpayer filed a return with the Municipality under Section 891.05 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.

(Ord. No. 15-179, 12-1-2015)

891.18. - Interest and penalties.

(a) As used in this section:

- (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the Municipality.
- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three (3) years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
- (3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by the Municipality pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (a) of this section" means the Federal short-term rate, rounded to the nearest whole number percent, plus five percent (5%). The rate shall apply for the calendar year next following the July of the year in which the Federal short-term rate is determined in accordance with division (a)(2) of this section.
- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with the Tax Administrator or the Municipality by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(b) (1) This section applies to the following:

- A. Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
- B. Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016.

- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the Municipality to which the return is to be filed or the payment is to be made.

- (c) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed, the following penalties and interest shall apply:
- (1) Interest shall be imposed at the rate described in division (a) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.
  - (2)
    - A. With respect to unpaid income tax and unpaid estimated income tax, the Municipality may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
    - B. With respect to any unpaid withholding tax, the Municipality may impose a penalty ~~equal to~~ **not exceeding** fifty percent (50%) of the amount not timely paid.
  - (3) With respect to returns other than estimated income tax returns, the Municipality may impose a penalty of twenty-five dollars (\$25.00) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed one hundred fifty dollars (\$150.00) for each failure.
- (d) Nothing in this section requires the Municipality to refund or credit any penalty, amount of interest, charges, or additional fees that the Municipality has properly imposed or collected before January 1, 2016.
- (e) Nothing in this section limits the authority of the Municipality to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate. However, the Tax Administrator is only authorized to abate interest up to one hundred dollars (\$100.00) and penalties up to one thousand dollars (\$1,000.00). Any interest exceeding one hundred dollars (\$100.00) and any penalties exceeding one thousand dollars (\$1,000.00) may only be abated with good cause, upon approval of the Board of Tax Review.
- (f) By the thirty-first day of October of each year the Municipality shall publish the rate described in division (a) of this section applicable to the next succeeding calendar year.
- (g) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

(Ord. No. 15-179, 12-1-2015)