

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 670

Representative Barnes

A BILL

To amend sections 718.01, 718.011, and 718.03 and 1
to enact section 718.032 of the Revised Code to 2
enact the "Simplified Alternative Withholding 3
Tax Compliance Act" authorizing an employer to 4
enter into an agreement with a municipal tax 5
administrator to prescribe, subject to certain 6
parameters, the portion of nonresident employee 7
wages that will be subject to the municipal 8
corporation's income tax. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 718.01, 718.011, and 718.03 be 10
amended and section 718.032 of the Revised Code be enacted to 11
read as follows: 12

Sec. 718.01. Any term used in this chapter that is not 13
otherwise defined in this chapter has the same meaning as when 14
used in a comparable context in laws of the United States 15
relating to federal income taxation or in Title LVIII of the 16
Revised Code, unless a different meaning is clearly required. If 17
a term used in this chapter that is not otherwise defined in 18
this chapter is used in a comparable context in both the laws of 19

the United States relating to federal income tax and in Title 20
LVII of the Revised Code and the use is not consistent, then the 21
use of the term in the laws of the United States relating to 22
federal income tax shall control over the use of the term in 23
Title LVII of the Revised Code. 24

As used in this chapter: 25

(A) (1) "Municipal taxable income" means the following: 26

(a) For a person other than an individual, income reduced 27
by exempt income to the extent otherwise included in income and 28
then, as applicable, apportioned or situated to the municipal 29
corporation under section 718.02 of the Revised Code, and 30
further reduced by any pre-2017 net operating loss carryforward 31
available to the person for the municipal corporation. 32

(b) (i) For an individual who is a resident of a municipal 33
corporation other than a qualified municipal corporation, income 34
reduced by exempt income to the extent otherwise included in 35
income, then reduced as provided in division (A) (2) of this 36
section, and further reduced by any pre-2017 net operating loss 37
carryforward available to the individual for the municipal 38
corporation. 39

(ii) For an individual who is a resident of a qualified 40
municipal corporation, Ohio adjusted gross income reduced by 41
income exempted, and increased by deductions excluded, by the 42
qualified municipal corporation from the qualified municipal 43
corporation's tax. If a qualified municipal corporation, on or 44
before December 31, 2013, exempts income earned by individuals 45
who are not residents of the qualified municipal corporation and 46
net profit of persons that are not wholly located within the 47
qualified municipal corporation, such individual or person shall 48

have no municipal taxable income for the purposes of the tax 49
levied by the qualified municipal corporation and may be 50
exempted by the qualified municipal corporation from the 51
requirements of section 718.03 of the Revised Code. 52

(c) For an individual who is a nonresident of a municipal 53
corporation, income reduced by exempt income to the extent 54
otherwise included in income and then, as applicable, 55
apportioned or situated to the municipal corporation under 56
section 718.02 of the Revised Code, then reduced as provided in 57
division (A) (2) of this section, and further reduced by any pre- 58
2017 net operating loss carryforward available to the individual 59
for the municipal corporation. 60

(2) In computing the municipal taxable income of a 61
taxpayer who is an individual, the taxpayer may subtract, as 62
provided in division (A) (1) (b) (i) or (c) of this section, the 63
amount of the individual's employee business expenses reported 64
on the individual's form 2106 that the individual deducted for 65
federal income tax purposes for the taxable year, subject to the 66
limitation imposed by section 67 of the Internal Revenue Code. 67
For the municipal corporation in which the taxpayer is a 68
resident, the taxpayer may deduct all such expenses allowed for 69
federal income tax purposes. For a municipal corporation in 70
which the taxpayer is not a resident, the taxpayer may deduct 71
such expenses only to the extent the expenses are related to the 72
taxpayer's performance of personal services in that nonresident 73
municipal corporation. 74

(B) "Income" means the following: 75

(1) (a) For residents, all income, salaries, qualifying 76
wages, commissions, and other compensation from whatever source 77
earned or received by the resident, including the resident's 78

distributive share of the net profit of pass-through entities	79
owned directly or indirectly by the resident and any net profit	80
of the resident, except as provided in division (D) (4) of this	81
section.	82
(b) For the purposes of division (B) (1) (a) of this	83
section:	84
(i) Any net operating loss of the resident incurred in the	85
taxable year and the resident's distributive share of any net	86
operating loss generated in the same taxable year and	87
attributable to the resident's ownership interest in a pass-	88
through entity shall be allowed as a deduction, for that taxable	89
year and the following five taxable years, against any other net	90
profit of the resident or the resident's distributive share of	91
any net profit attributable to the resident's ownership interest	92
in a pass-through entity until fully utilized, subject to	93
division (B) (1) (d) of this section;	94
(ii) The resident's distributive share of the net profit	95
of each pass-through entity owned directly or indirectly by the	96
resident shall be calculated without regard to any net operating	97
loss that is carried forward by that entity from a prior taxable	98
year and applied to reduce the entity's net profit for the	99
current taxable year.	100
(c) Division (B) (1) (b) of this section does not apply with	101
respect to any net profit or net operating loss attributable to	102
an ownership interest in an S corporation unless shareholders'	103
distributive shares of net profits from S corporations are	104
subject to tax in the municipal corporation as provided in	105
division (C) (14) (b) or (c) of this section.	106
(d) Any amount of a net operating loss used to reduce a	107

taxpayer's net profit for a taxable year shall reduce the amount 108
of net operating loss that may be carried forward to any 109
subsequent year for use by that taxpayer. In no event shall the 110
cumulative deductions for all taxable years with respect to a 111
taxpayer's net operating loss exceed the original amount of that 112
net operating loss available to that taxpayer. 113

(2) In the case of nonresidents, all income, salaries, 114
qualifying wages, commissions, and other compensation from 115
whatever source earned or received by the nonresident for work 116
done, services performed or rendered, or activities conducted in 117
the municipal corporation, including any net profit of the 118
nonresident, but excluding the nonresident's distributive share 119
of the net profit or loss of only pass-through entities owned 120
directly or indirectly by the nonresident. 121

(3) For taxpayers that are not individuals, net profit of 122
the taxpayer; 123

(4) Lottery, sweepstakes, gambling and sports winnings, 124
winnings from games of chance, and prizes and awards. If the 125
taxpayer is a professional gambler for federal income tax 126
purposes, the taxpayer may deduct related wagering losses and 127
expenses to the extent authorized under the Internal Revenue 128
Code and claimed against such winnings. 129

(C) "Exempt income" means all of the following: 130

(1) The military pay or allowances of members of the armed 131
forces of the United States or members of their reserve 132
components, including the national guard of any state; 133

(2) (a) Except as provided in division (C) (2) (b) of this 134
section, intangible income; 135

(b) A municipal corporation that taxed any type of 136

intangible income on March 29, 1988, pursuant to Section 3 of 137
S.B. 238 of the 116th general assembly, may continue to tax that 138
type of income if a majority of the electors of the municipal 139
corporation voting on the question of whether to permit the 140
taxation of that type of intangible income after 1988 voted in 141
favor thereof at an election held on November 8, 1988. 142

(3) Social security benefits, railroad retirement 143
benefits, unemployment compensation, pensions, retirement 144
benefit payments, payments from annuities, and similar payments 145
made to an employee or to the beneficiary of an employee under a 146
retirement program or plan, disability payments received from 147
private industry or local, state, or federal governments or from 148
charitable, religious or educational organizations, and the 149
proceeds of sickness, accident, or liability insurance policies. 150
As used in division (C) (3) of this section, "unemployment 151
compensation" does not include supplemental unemployment 152
compensation described in section 3402(o) (2) of the Internal 153
Revenue Code. 154

(4) The income of religious, fraternal, charitable, 155
scientific, literary, or educational institutions to the extent 156
such income is derived from tax-exempt real estate, tax-exempt 157
tangible or intangible property, or tax-exempt activities. 158

(5) Compensation paid under section 3501.28 or 3501.36 of 159
the Revised Code to a person serving as a precinct election 160
official to the extent that such compensation does not exceed 161
one thousand dollars for the taxable year. Such compensation in 162
excess of one thousand dollars for the taxable year may be 163
subject to taxation by a municipal corporation. A municipal 164
corporation shall not require the payer of such compensation to 165
withhold any tax from that compensation. 166

(6) Dues, contributions, and similar payments received by	167
charitable, religious, educational, or literary organizations or	168
labor unions, lodges, and similar organizations;	169
(7) Alimony and child support received;	170
(8) Compensation for personal injuries or for damages to	171
property from insurance proceeds or otherwise, excluding	172
compensation paid for lost salaries or wages or compensation	173
from punitive damages;	174
(9) Income of a public utility when that public utility is	175
subject to the tax levied under section 5727.24 or 5727.30 of	176
the Revised Code. Division (C) (9) of this section does not apply	177
for purposes of Chapter 5745. of the Revised Code.	178
(10) Gains from involuntary conversions, interest on	179
federal obligations, items of income subject to a tax levied by	180
the state and that a municipal corporation is specifically	181
prohibited by law from taxing, and income of a decedent's estate	182
during the period of administration except such income from the	183
operation of a trade or business;	184
(11) Compensation or allowances excluded from federal	185
gross income under section 107 of the Internal Revenue Code;	186
(12) Employee compensation that is not qualifying wages as	187
defined in division (R) of this section;	188
(13) Compensation paid to a person employed within the	189
boundaries of a United States air force base under the	190
jurisdiction of the United States air force that is used for the	191
housing of members of the United States air force and is a	192
center for air force operations, unless the person is subject to	193
taxation because of residence or domicile. If the compensation	194
is subject to taxation because of residence or domicile, tax on	195

such income shall be payable only to the municipal corporation	196
of residence or domicile.	197
(14) (a) Except as provided in division (C) (14) (b) or (c)	198
of this section, an S corporation shareholder's distributive	199
share of net profits of the S corporation, other than any part	200
of the distributive share of net profits that represents wages	201
as defined in section 3121(a) of the Internal Revenue Code or	202
net earnings from self-employment as defined in section 1402(a)	203
of the Internal Revenue Code.	204
(b) If, pursuant to division (H) of former section 718.01	205
of the Revised Code as it existed before March 11, 2004, a	206
majority of the electors of a municipal corporation voted in	207
favor of the question at an election held on November 4, 2003,	208
the municipal corporation may continue after 2002 to tax an S	209
corporation shareholder's distributive share of net profits of	210
an S corporation.	211
(c) If, on December 6, 2002, a municipal corporation was	212
imposing, assessing, and collecting a tax on an S corporation	213
shareholder's distributive share of net profits of the S	214
corporation to the extent the distributive share would be	215
allocated or apportioned to this state under divisions (B) (1)	216
and (2) of section 5733.05 of the Revised Code if the S	217
corporation were a corporation subject to taxes imposed under	218
Chapter 5733. of the Revised Code, the municipal corporation may	219
continue to impose the tax on such distributive shares to the	220
extent such shares would be so allocated or apportioned to this	221
state only until December 31, 2004, unless a majority of the	222
electors of the municipal corporation voting on the question of	223
continuing to tax such shares after that date voted in favor of	224
that question at an election held November 2, 2004. If a	225

majority of those electors voted in favor of the question, the 226
municipal corporation may continue after December 31, 2004, to 227
impose the tax on such distributive shares only to the extent 228
such shares would be so allocated or apportioned to this state. 229

(d) A municipal corporation shall be deemed to have 230
elected to tax S corporation shareholders' distributive shares 231
of net profits of the S corporation in the hands of the 232
shareholders if a majority of the electors of a municipal 233
corporation voted in favor of a question at an election held 234
under division (C) (14) (b) or (c) of this section. The municipal 235
corporation shall specify by resolution or ordinance that the 236
tax applies to the distributive share of a shareholder of an S 237
corporation in the hands of the shareholder of the S 238
corporation. 239

(15) To the extent authorized under a resolution or 240
ordinance adopted by a municipal corporation before January 1, 241
2016, all or a portion of the income of individuals or a class 242
of individuals under eighteen years of age. 243

(16) (a) Except as provided in divisions (C) (16) (b), (c), 244
and (d) of this section, qualifying wages described in division 245
(B) (1) or (E) of section 718.011 of the Revised Code to the 246
extent the qualifying wages are not subject to withholding for 247
the municipal corporation under either of those divisions. 248

(b) The exemption provided in division (C) (16) (a) of this 249
section does not apply with respect to the municipal corporation 250
in which the employee resided at the time the employee earned 251
the qualifying wages. 252

(c) The exemption provided in division (C) (16) (a) of this 253
section does not apply to qualifying wages that an employer 254

elects to withhold under division (D) (2) of section 718.011 of the Revised Code.	255 256
(d) The exemption provided in division (C) (16) (a) of this section does not apply to qualifying wages if both of the following conditions apply:	257 258 259
(i) For qualifying wages described in division (B) (1) of section 718.011 of the Revised Code, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of section 718.011 of the Revised Code, 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;	260 261 262 263 264 265 266 267 268
(ii) The employee receives a refund of the tax described in division (C) (16) (d) (i) of this section on the basis of the employee not performing services in that municipal corporation.	269 270 271
(17) (a) Except as provided in division (C) (17) (b) or (c) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipal corporation on not more than twenty days in a taxable year.	272 273 274 275 276
(b) The exemption provided in division (C) (17) (a) of this section does not apply under either of the following circumstances:	277 278 279
(i) The individual's base of operation is located in the municipal corporation.	280 281
(ii) The individual is a professional athlete, professional entertainer, or public figure, and the compensation	282 283

is paid for the performance of services in the individual's 284
capacity as a professional athlete, professional entertainer, or 285
public figure. For purposes of division (C) (17) (b) (ii) of this 286
section, "professional athlete," "professional entertainer," and 287
"public figure" have the same meanings as in section 718.011 of 288
the Revised Code. 289

(c) Compensation to which division (C) (17) of this section 290
applies shall be treated as earned or received at the 291
individual's base of operation. If the individual does not have 292
a base of operation, the compensation shall be treated as earned 293
or received where the individual is domiciled. 294

(d) For purposes of division (C) (17) of this section, 295
"base of operation" means the location where an individual owns 296
or rents an office, storefront, or similar facility to which the 297
individual regularly reports and at which the individual 298
regularly performs personal services for compensation. 299

(18) Compensation paid to a person for personal services 300
performed for a political subdivision on property owned by the 301
political subdivision, regardless of whether the compensation is 302
received by an employee of the subdivision or another person 303
performing services for the subdivision under a contract with 304
the subdivision, if the property on which services are performed 305
is annexed to a municipal corporation pursuant to section 306
709.023 of the Revised Code on or after March 27, 2013, unless 307
the person is subject to such taxation because of residence. If 308
the compensation is subject to taxation because of residence, 309
municipal income tax shall be payable only to the municipal 310
corporation of residence. 311

(19) Qualifying wages paid to a nonresident employee for 312
services performed in the municipal corporation in excess of 313

those wages from which tax was withheld pursuant to an agreement 314
entered into under section 718.032 of the Revised Code. 315

(20) In the case of a tax administered, collected, and 316
enforced by a municipal corporation pursuant to an agreement 317
with the board of directors of a joint economic development 318
district under section 715.72 of the Revised Code, the net 319
profits of a business, and the income of the employees of that 320
business, exempted from the tax under division (Q) of that 321
section. 322

~~(20)~~ (21) Income the taxation of which is prohibited by 323
the constitution or laws of the United States. 324

Any item of income that is exempt income of a pass-through 325
entity under division (C) of this section is exempt income of 326
each owner of the pass-through entity to the extent of that 327
owner's distributive or proportionate share of that item of the 328
entity's income. 329

(D) (1) "Net profit" for a person other than an individual 330
means adjusted federal taxable income. 331

(2) "Net profit" for a person who is an individual means 332
the individual's net profit required to be reported on schedule 333
C, schedule E, or schedule F reduced by any net operating loss 334
carried forward. For the purposes of division (D) (2) of this 335
section, the net operating loss carried forward shall be 336
calculated and deducted in the same manner as provided in 337
division (E) (8) of this section. 338

(3) For the purposes of this chapter, and notwithstanding 339
division (D) (1) of this section, net profit of a disregarded 340
entity shall not be taxable as against that disregarded entity, 341
but shall instead be included in the net profit of the owner of 342

the disregarded entity. 343

(4) For the purposes of this chapter, and notwithstanding 344
any other provision of this chapter, the net profit of a 345
publicly traded partnership that makes the election described in 346
division (D)(4) of this section shall be taxed as if the 347
partnership were a C corporation, and shall not be treated as 348
the net profit or income of any owner of the partnership. 349

A publicly traded partnership that is treated as a 350
partnership for federal income tax purposes and that is subject 351
to tax on its net profits in one or more municipal corporations 352
in this state may elect to be treated as a C corporation for 353
municipal income tax purposes. The publicly traded partnership 354
shall make the election in every municipal corporation in which 355
the partnership is subject to taxation on its net profits. The 356
election shall be made on the annual tax return filed in each 357
such municipal corporation. The publicly traded partnership 358
shall not be required to file the election with any municipal 359
corporation in which the partnership is not subject to taxation 360
on its net profits, but division (D)(4) of this section applies 361
to all municipal corporations in which an individual owner of 362
the partnership resides. 363

(E) "Adjusted federal taxable income," for a person 364
required to file as a C corporation, or for a person that has 365
elected to be taxed as a C corporation under division (D)(4) of 366
this section, means a C corporation's federal taxable income 367
before net operating losses and special deductions as determined 368
under the Internal Revenue Code, adjusted as follows: 369

(1) Deduct intangible income to the extent included in 370
federal taxable income. The deduction shall be allowed 371
regardless of whether the intangible income relates to assets 372

used in a trade or business or assets held for the production of income.	373 374
(2) Add an amount equal to five per cent of intangible income deducted under division (E) (1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;	375 376 377 378 379
(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;	380 381 382 383
(4) (a) Except as provided in division (E) (4) (b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;	384 385 386 387 388
(b) Division (E) (4) (a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.	389 390 391
(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;	392 393
(6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;	394 395 396 397 398
(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred	399 400 401

under that agreement under section 4313.02 of the Revised Code; 402

(8) (a) Except as limited by divisions (E) (8) (b), (c), and 403
(d) of this section, deduct any net operating loss incurred by 404
the person in a taxable year beginning on or after January 1, 405
2017. 406

The amount of such net operating loss shall be deducted 407
from net profit that is reduced by exempt income to the extent 408
necessary to reduce municipal taxable income to zero, with any 409
remaining unused portion of the net operating loss carried 410
forward to not more than five consecutive taxable years 411
following the taxable year in which the loss was incurred, but 412
in no case for more years than necessary for the deduction to be 413
fully utilized. 414

(b) No person shall use the deduction allowed by division 415
(E) (8) of this section to offset qualifying wages. 416

(c) (i) For taxable years beginning in 2018, 2019, 2020, 417
2021, or 2022, a person may not deduct, for purposes of an 418
income tax levied by a municipal corporation that levies an 419
income tax before January 1, 2016, more than fifty per cent of 420
the amount of the deduction otherwise allowed by division (E) (8) 421
(a) of this section. 422

(ii) For taxable years beginning in 2023 or thereafter, a 423
person may deduct, for purposes of an income tax levied by a 424
municipal corporation that levies an income tax before January 425
1, 2016, the full amount allowed by division (E) (8) (a) of this 426
section. 427

(d) Any pre-2017 net operating loss carryforward deduction 428
that is available must be utilized before a taxpayer may deduct 429
any amount pursuant to division (E) (8) of this section. 430

(e) Nothing in division (E) (8) (c) (i) of this section 431
precludes a person from carrying forward, for use with respect 432
to any return filed for a taxable year beginning after 2018, any 433
amount of net operating loss that was not fully utilized by 434
operation of division (E) (8) (c) (i) of this section. To the 435
extent that an amount of net operating loss that was not fully 436
utilized in one or more taxable years by operation of division 437
(E) (8) (c) (i) of this section is carried forward for use with 438
respect to a return filed for a taxable year beginning in 2019, 439
2020, 2021, or 2022, the limitation described in division (E) (8) 440
(c) (i) of this section shall apply to the amount carried 441
forward. 442

(9) Deduct any net profit of a pass-through entity owned 443
directly or indirectly by the taxpayer and included in the 444
taxpayer's federal taxable income unless an affiliated group of 445
corporations includes that net profit in the group's federal 446
taxable income in accordance with division (E) (3) (b) of section 447
718.06 of the Revised Code. 448

(10) Add any loss incurred by a pass-through entity owned 449
directly or indirectly by the taxpayer and included in the 450
taxpayer's federal taxable income unless an affiliated group of 451
corporations includes that loss in the group's federal taxable 452
income in accordance with division (E) (3) (b) of section 718.06 453
of the Revised Code. 454

If the taxpayer is not a C corporation, is not a 455
disregarded entity that has made the election described in 456
division (L) (2) of this section, is not a publicly traded 457
partnership that has made the election described in division (D) 458
(4) of this section, and is not an individual, the taxpayer 459
shall compute adjusted federal taxable income under this section 460

as if the taxpayer were a C corporation, except guaranteed 461
payments and other similar amounts paid or accrued to a partner, 462
former partner, shareholder, former shareholder, member, or 463
former member shall not be allowed as a deductible expense 464
unless such payments are in consideration for the use of capital 465
and treated as payment of interest under section 469 of the 466
Internal Revenue Code or United States treasury regulations. 467
Amounts paid or accrued to a qualified self-employed retirement 468
plan with respect to a partner, former partner, shareholder, 469
former shareholder, member, or former member of the taxpayer, 470
amounts paid or accrued to or for health insurance for a 471
partner, former partner, shareholder, former shareholder, 472
member, or former member, and amounts paid or accrued to or for 473
life insurance for a partner, former partner, shareholder, 474
former shareholder, member, or former member shall not be 475
allowed as a deduction. 476

Nothing in division (E) of this section shall be construed 477
as allowing the taxpayer to add or deduct any amount more than 478
once or shall be construed as allowing any taxpayer to deduct 479
any amount paid to or accrued for purposes of federal self- 480
employment tax. 481

(F) "Schedule C" means internal revenue service schedule C 482
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 483
Code. 484

(G) "Schedule E" means internal revenue service schedule E 485
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 486
Code. 487

(H) "Schedule F" means internal revenue service schedule F 488
(form 1040) filed by a taxpayer pursuant to the Internal Revenue 489
Code. 490

(I) "Internal Revenue Code" has the same meaning as in section 5747.01 of the Revised Code.	491 492
(J) "Resident" means an individual who is domiciled in the municipal corporation as determined under section 718.012 of the Revised Code.	493 494 495
(K) "Nonresident" means an individual that is not a resident.	496 497
(L) (1) "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 (L) (2) (a) of this section, a disregarded entity.	498 499 500 501 502
(2) (a) 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:	503 504 505 506 507 508
(i) The limited liability company's single member is also a limited liability company.	509 510
(ii) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.	511 512 513
(iii) 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 this section as this section existed on December 31, 2004.	514 515 516 517
(iv) The limited liability company was not formed for the	518

purpose of evading or reducing Ohio municipal corporation income 519
tax liability of the limited liability company or its single 520
member. 521

(v) The Ohio municipal corporation that was the primary 522
place of business of the sole member of the limited liability 523
company consented to the election. 524

(b) For purposes of division (L) (2) (a) (v) of this section, 525
a municipal corporation was the primary place of business of a 526
limited liability company if, for the limited liability 527
company's taxable year ending in 2003, its income tax liability 528
was greater in that municipal corporation than in any other 529
municipal corporation in Ohio, and that tax liability to that 530
municipal corporation for its taxable year ending in 2003 was at 531
least four hundred thousand dollars. 532

(M) "Person" includes individuals, firms, companies, joint 533
stock companies, business trusts, estates, trusts, partnerships, 534
limited liability partnerships, limited liability companies, 535
associations, C corporations, S corporations, governmental 536
entities, and any other entity. 537

(N) "Pass-through entity" means a partnership not treated 538
as an association taxable as a C corporation for federal income 539
tax purposes, a limited liability company not treated as an 540
association taxable as a C corporation for federal income tax 541
purposes, an S corporation, or any other class of entity from 542
which the income or profits of the entity are given pass-through 543
treatment for federal income tax purposes. "Pass-through entity" 544
does not include a trust, estate, grantor of a grantor trust, or 545
disregarded entity. 546

(O) "S corporation" means a person that has made an 547

election under subchapter S of Chapter 1 of Subtitle A of the	548
Internal Revenue Code for its taxable year.	549
(P) "Single member limited liability company" means a	550
limited liability company that has one direct member.	551
(Q) "Limited liability company" means a limited liability	552
company formed under Chapter 1705. of the Revised Code or under	553
the laws of another state.	554
(R) "Qualifying wages" means wages, as defined in section	555
3121(a) of the Internal Revenue Code, without regard to any wage	556
limitations, adjusted as follows:	557
(1) Deduct the following amounts:	558
(a) Any amount included in wages if the amount constitutes	559
compensation attributable to a plan or program described in	560
section 125 of the Internal Revenue Code.	561
(b) Any amount included in wages if the amount constitutes	562
payment on account of a disability related to sickness or an	563
accident paid by a party unrelated to the employer, agent of an	564
employer, or other payer.	565
(c) Any amount attributable to a nonqualified deferred	566
compensation plan or program described in section 3121(v) (2) (C)	567
of the Internal Revenue Code if the compensation is included in	568
wages and the municipal corporation has, by resolution or	569
ordinance adopted before January 1, 2016, exempted the amount	570
from withholding and tax.	571
(d) Any amount included in wages if the amount arises from	572
the sale, exchange, or other disposition of a stock option, the	573
exercise of a stock option, or the sale, exchange, or other	574
disposition of stock purchased under a stock option and the	575

municipal corporation has, by resolution or ordinance adopted	576
before January 1, 2016, exempted the amount from withholding and	577
tax.	578
(e) Any amount included in wages that is exempt income.	579
(2) Add the following amounts:	580
(a) Any amount not included in wages solely because the	581
employee was employed by the employer before April 1, 1986.	582
(b) Any amount not included in wages because the amount	583
arises from the sale, exchange, or other disposition of a stock	584
option, the exercise of a stock option, or the sale, exchange,	585
or other disposition of stock purchased under a stock option and	586
the municipal corporation has not, by resolution or ordinance,	587
exempted the amount from withholding and tax adopted before	588
January 1, 2016. Division (R) (2) (b) of this section applies only	589
to those amounts constituting ordinary income.	590
(c) Any amount not included in wages if the amount is an	591
amount described in section 401(k), 403(b), or 457 of the	592
Internal Revenue Code. Division (R) (2) (c) of this section	593
applies only to employee contributions and employee deferrals.	594
(d) Any amount that is supplemental unemployment	595
compensation benefits described in section 3402(o) (2) of the	596
Internal Revenue Code and not included in wages.	597
(e) Any amount received that is treated as self-employment	598
income for federal tax purposes in accordance with section	599
1402(a) (8) of the Internal Revenue Code.	600
(f) Any amount not included in wages if all of the	601
following apply:	602
(i) For the taxable year the amount is employee	603

compensation that is earned outside of the United States and 604
that either is included in the taxpayer's gross income for 605
federal income tax purposes or would have been included in the 606
taxpayer's gross income for such purposes if the taxpayer did 607
not elect to exclude the income under section 911 of the 608
Internal Revenue Code; 609

(ii) For no preceding taxable year did the amount 610
constitute wages as defined in section 3121(a) of the Internal 611
Revenue Code; 612

(iii) For no succeeding taxable year will the amount 613
constitute wages; and 614

(iv) For any taxable year the amount has not otherwise 615
been added to wages pursuant to either division (R) (2) of this 616
section or section 718.03 of the Revised Code, as that section 617
existed before the effective date of H.B. 5 of the 130th general 618
assembly, March 23, 2015. 619

(S) "Intangible income" means income of any of the 620
following types: income yield, interest, capital gains, 621
dividends, or other income arising from the ownership, sale, 622
exchange, or other disposition of intangible property including, 623
but not limited to, investments, deposits, money, or credits as 624
those terms are defined in Chapter 5701. of the Revised Code, 625
and patents, copyrights, trademarks, tradenames, investments in 626
real estate investment trusts, investments in regulated 627
investment companies, and appreciation on deferred compensation. 628
"Intangible income" does not include prizes, awards, or other 629
income associated with any lottery winnings, gambling winnings, 630
or other similar games of chance. 631

(T) "Taxable year" means the corresponding tax reporting 632

period as prescribed for the taxpayer under the Internal Revenue Code. 633
634

(U) "Tax administrator" means the individual charged with 635
direct responsibility for administration of an income tax levied 636
by a municipal corporation in accordance with this chapter, and 637
also includes the following: 638

(1) A municipal corporation acting as the agent of another 639
municipal corporation; 640

(2) A person retained by a municipal corporation to 641
administer a tax levied by the municipal corporation, but only 642
if the municipal corporation does not compensate the person in 643
whole or in part on a contingency basis; 644

(3) The central collection agency or the regional income 645
tax agency or their successors in interest, or another entity 646
organized to perform functions similar to those performed by the 647
central collection agency and the regional income tax agency. 648

(V) "Employer" means a person that is an employer for 649
federal income tax purposes. 650

(W) "Employee" means an individual who is an employee for 651
federal income tax purposes. 652

(X) "Other payer" means any person, other than an 653
individual's employer or the employer's agent, that pays an 654
individual any amount included in the federal gross income of 655
the individual. "Other payer" includes casino operators and 656
video lottery terminal sales agents. 657

(Y) "Calendar quarter" means the three-month period ending 658
on the last day of March, June, September, or December. 659

(Z) "Form 2106" means internal revenue service form 2106 660

filed by a taxpayer pursuant to the Internal Revenue Code. 661

(AA) "Municipal corporation" includes a joint economic 662
development district or joint economic development zone that 663
levies an income tax under section 715.691, 715.70, 715.71, or 664
715.72 of the Revised Code. 665

(BB) "Disregarded entity" means a single member limited 666
liability company, a qualifying subchapter S subsidiary, or 667
another entity if the company, subsidiary, or entity is a 668
disregarded entity for federal income tax purposes. 669

(CC) "Generic form" means an electronic or paper form that 670
is not prescribed by a particular municipal corporation and that 671
is designed for reporting taxes withheld by an employer, agent 672
of an employer, or other payer, estimated municipal income 673
taxes, or annual municipal income tax liability or for filing a 674
refund claim. 675

(DD) "Tax return preparer" means any individual described 676
in section 7701(a)(36) of the Internal Revenue Code and 26 677
C.F.R. 301.7701-15. 678

(EE) "Ohio business gateway" means the online computer 679
network system, created under section 125.30 of the Revised 680
Code, that allows persons to electronically file business reply 681
forms with state agencies and includes any successor electronic 682
filing and payment system. 683

(FF) "Local board of tax review" and "board of tax review" 684
mean the entity created under section 718.11 of the Revised 685
Code. 686

(GG) "Net operating loss" means a loss incurred by a 687
person in the operation of a trade or business. "Net operating 688
loss" does not include unutilized losses resulting from basis 689

limitations, at-risk limitations, or passive activity loss	690
limitations.	691
(HH) "Casino operator" and "casino facility" have the same	692
meanings as in section 3772.01 of the Revised Code.	693
(II) "Video lottery terminal" has the same meaning as in	694
section 3770.21 of the Revised Code.	695
(JJ) "Video lottery terminal sales agent" means a lottery	696
sales agent licensed under Chapter 3770. of the Revised Code to	697
conduct video lottery terminals on behalf of the state pursuant	698
to section 3770.21 of the Revised Code.	699
(KK) "Postal service" means the United States postal	700
service.	701
(LL) "Certified mail," "express mail," "United States	702
mail," "postal service," and similar terms include any delivery	703
service authorized pursuant to section 5703.056 of the Revised	704
Code.	705
(MM) "Postmark date," "date of postmark," and similar	706
terms include the date recorded and marked in the manner	707
described in division (B) (3) of section 5703.056 of the Revised	708
Code.	709
(NN) "Related member" means a person that, with respect to	710
the taxpayer during all or any portion of the taxable year, is	711
either a related entity, a component member as defined in	712
section 1563(b) of the Internal Revenue Code, or a person to or	713
from whom there is attribution of stock ownership in accordance	714
with section 1563(e) of the Internal Revenue Code except, for	715
purposes of determining whether a person is a related member	716
under this division, "twenty per cent" shall be substituted for	717
"5 percent" wherever "5 percent" appears in section 1563(e) of	718

the Internal Revenue Code. 719

(00) "Related entity" means any of the following: 720

(1) An individual stockholder, or a member of the 721
stockholder's family enumerated in section 318 of the Internal 722
Revenue Code, if the stockholder and the members of the 723
stockholder's family own directly, indirectly, beneficially, or 724
constructively, in the aggregate, at least fifty per cent of the 725
value of the taxpayer's outstanding stock; 726

(2) A stockholder, or a stockholder's partnership, estate, 727
trust, or corporation, if the stockholder and the stockholder's 728
partnerships, estates, trusts, or corporations own directly, 729
indirectly, beneficially, or constructively, in the aggregate, 730
at least fifty per cent of the value of the taxpayer's 731
outstanding stock; 732

(3) A corporation, or a party related to the corporation 733
in a manner that would require an attribution of stock from the 734
corporation to the party or from the party to the corporation 735
under division (00) (4) of this section, provided the taxpayer 736
owns directly, indirectly, beneficially, or constructively, at 737
least fifty per cent of the value of the corporation's 738
outstanding stock; 739

(4) The attribution rules described in section 318 of the 740
Internal Revenue Code apply for the purpose of determining 741
whether the ownership requirements in divisions (00) (1) to (3) 742
of this section have been met. 743

(PP) (1) "Assessment" means a written finding by the tax 744
administrator that a person has underpaid municipal income tax, 745
or owes penalty and interest, or any combination of tax, 746
penalty, or interest, to the municipal corporation that 747

commences the person's time limitation for making an appeal to 748
the local board of tax review pursuant to section 718.11 of the 749
Revised Code, and has "ASSESSMENT" written in all capital 750
letters at the top of such finding. 751

(2) "Assessment" does not include an informal notice 752
denying a request for refund issued under division (B)(3) of 753
section 718.19 of the Revised Code, a billing statement 754
notifying a taxpayer of current or past-due balances owed to the 755
municipal corporation, a tax administrator's request for 756
additional information, a notification to the taxpayer of 757
mathematical errors, or a tax administrator's other written 758
correspondence to a person or taxpayer that does meet the 759
criteria prescribed by division (PP)(1) of this section. 760

(QQ) "Taxpayers' rights and responsibilities" means the 761
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 762
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 763
Revised Code and the responsibilities of taxpayers to file, 764
report, withhold, remit, and pay municipal income tax and 765
otherwise comply with Chapter 718. of the Revised Code and 766
resolutions, ordinances, and rules adopted by a municipal 767
corporation for the imposition and administration of a municipal 768
income tax. 769

(RR) "Qualified municipal corporation" means a municipal 770
corporation that, by resolution or ordinance adopted on or 771
before December 31, 2011, adopted Ohio adjusted gross income, as 772
defined by section 5747.01 of the Revised Code, as the income 773
subject to tax for the purposes of imposing a municipal income 774
tax. 775

(SS) (1) "Pre-2017 net operating loss carryforward" means 776
any net operating loss incurred in a taxable year beginning 777

before January 1, 2017, to the extent such loss was permitted, 778
by a resolution or ordinance of the municipal corporation that 779
was adopted by the municipal corporation before January 1, 2016, 780
to be carried forward and utilized to offset income or net 781
profit generated in such municipal corporation in future taxable 782
years. 783

(2) For the purpose of calculating municipal taxable 784
income, any pre-2017 net operating loss carryforward may be 785
carried forward to any taxable year, including taxable years 786
beginning in 2017 or thereafter, for the number of taxable years 787
provided in the resolution or ordinance or until fully utilized, 788
whichever is earlier. 789

(TT) "Small employer" means any employer that had total 790
revenue of less than five hundred thousand dollars during the 791
preceding taxable year. For purposes of this division, "total 792
revenue" means receipts of any type or kind, including, but not 793
limited to, sales receipts; payments; rents; profits; gains, 794
dividends, and other investment income; compensation; 795
commissions; premiums; money; property; grants; contributions; 796
donations; gifts; program service revenue; patient service 797
revenue; premiums; fees, including premium fees and service 798
fees; tuition payments; unrelated business revenue; 799
reimbursements; any type of payment from a governmental unit, 800
including grants and other allocations; and any other similar 801
receipts reported for federal income tax purposes or under 802
generally accepted accounting principles. "Small employer" does 803
not include the federal government; any state government, 804
including any state agency or instrumentality; any political 805
subdivision; or any entity treated as a government for financial 806
accounting and reporting purposes. 807

(UU) "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person for the purpose of determining liability for a municipal income tax.

(VV) "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.

Sec. 718.011. (A) As used in this section:

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year.

"Worksite location" does not include the home of an employee. 836

(7) "Principal place of work" means the fixed location to 837
which an employee is required to report for employment duties on 838
a regular and ordinary basis. If the employee is not required to 839
report for employment duties on a regular and ordinary basis to 840
a fixed location, "principal place of work" means the worksite 841
location in this state to which the employee is required to 842
report for employment duties on a regular and ordinary basis. If 843
the employee is not required to report for employment duties on 844
a regular and ordinary basis to a fixed location or worksite 845
location, "principal place of work" means the location in this 846
state at which the employee spends the greatest number of days 847
in a calendar year performing services for or on behalf of the 848
employee's employer. 849

If there is not a single municipal corporation in which 850
the employee spent the "greatest number of days in a calendar 851
year" performing services for or on behalf of the employer, but 852
instead there are two or more municipal corporations in which 853
the employee spent an identical number of days that is greater 854
than the number of days the employee spent in any other 855
municipal corporation, the employer shall allocate any of the 856
employee's qualifying wages subject to division (B) (1) (a) of 857
this section among those two or more municipal corporations. The 858
allocation shall be made using any fair and reasonable method, 859
including, but not limited to, an equal allocation among such 860
municipal corporations or an allocation based upon the time 861
spent or sales made by the employee in each such municipal 862
corporation. A municipal corporation to which qualifying wages 863
are allocated under this division shall be the employee's 864
"principal place of work" with respect to those qualifying wages 865
for the purposes of this section. 866

For the purposes of this division, the location at which
an employee spends a particular day shall be determined in
accordance with division (B) (2) of this section, except that
"location" shall be substituted for "municipal corporation"
wherever "municipal corporation" appears in that division.

(B) (1) Subject to divisions (C), (E), (F), ~~and (G)~~, and
(H) of this section, an employer is not required to withhold
municipal income tax on qualifying wages paid to an employee for
the performance of personal services in a municipal corporation
that imposes such a tax if the employee performed such services
in the municipal corporation on twenty or fewer days in a
calendar year, unless one of the following conditions applies:

(a) The employee's principal place of work is located in
the municipal corporation.

(b) The employee performed services at one or more
presumed worksite locations in the municipal corporation. For
the purposes of this division, "presumed worksite location"
means a construction site or other temporary worksite in this
state at which the employer provides services that can
reasonably be expected by the employer to last more than twenty
days in a calendar year. Services can "reasonably be expected by
the employer to last more than twenty days" if either of the
following applies at the time the services commence:

(i) The nature of the services are such that it will
require more than twenty days of actual services to complete the
services;

(ii) The agreement between the employer and its customer
to perform services at a location requires the employer to
perform actual services at the location for more than twenty

days. 896

(c) The employee is a resident of the municipal 897
corporation and has requested that the employer withhold tax 898
from the employee's qualifying wages as provided in section 899
718.03 of the Revised Code. 900

(d) The employee is a professional athlete, professional 901
entertainer, or public figure, and the qualifying wages are paid 902
for the performance of services in the employee's capacity as a 903
professional athlete, professional entertainer, or public 904
figure. 905

(2) For the purposes of division (B)(1) of this section, 906
an employee shall be considered to have spent a day performing 907
services in a municipal corporation only if the employee spent 908
more time performing services for or on behalf of the employer 909
in that municipal corporation than in any other municipal 910
corporation on that day. For the purposes of determining the 911
amount of time an employee spent in a particular location, the 912
time spent performing one or more of the following activities 913
shall be considered to have been spent at the employee's 914
principal place of work: 915

(a) Traveling to the location at which the employee will 916
first perform services for the employer for the day; 917

(b) Traveling from a location at which the employee was 918
performing services for the employer to any other location; 919

(c) Traveling from any location to another location in 920
order to pick up or load, for the purpose of transportation or 921
delivery, property that has been purchased, sold, assembled, 922
fabricated, repaired, refurbished, processed, remanufactured, or 923
improved by the employee's employer; 924

(d) Transporting or delivering property described in 925
division (B) (2) (c) of this section, provided that, upon delivery 926
of the property, the employee does not temporarily or 927
permanently affix the property to real estate owned, used, or 928
controlled by a person other than the employee's employer; 929

(e) Traveling from the location at which the employee 930
makes the employee's final delivery or pick-up for the day to 931
either the employee's principal place of work or a location at 932
which the employee will not perform services for the employer. 933

(C) If the principal place of work of an employee is 934
located in a municipal corporation that imposes an income tax in 935
accordance with this chapter, the exception from withholding 936
requirements described in division (B) (1) of this section shall 937
apply only if, with respect to the employee's qualifying wages 938
described in that division, the employer withholds and remits 939
tax on such qualifying wages to the municipal corporation in 940
which the employee's principal place of work is located. 941

(D) (1) Except as provided in division (D) (2) of this 942
section, if, during a calendar year, the number of days an 943
employee spends performing personal services in a municipal 944
corporation exceeds the twenty-day threshold described in 945
division (B) (1) of this section, the employer shall withhold and 946
remit tax to that municipal corporation for any subsequent days 947
in that calendar year on which the employer pays qualifying 948
wages to the employee for personal services performed in that 949
municipal corporation. 950

(2) An employer required to begin withholding tax for a 951
municipal corporation under division (D) (1) of this section may 952
elect to withhold tax for that municipal corporation for the 953
first twenty days on which the employer paid qualifying wages to 954

the employee for personal services performed in that municipal corporation. 955
956

(3) If an employer makes the election described in 957
division (D) (2) of this section, the taxes withheld and paid by 958
such an employer during those first twenty days to the municipal 959
corporation in which the employee's principal place of work is 960
located are refundable to the employee. 961

(E) Without regard to the number of days in a calendar 962
year on which an employee performs personal services in any 963
municipal corporation, an employer shall withhold municipal 964
income tax on all of the employee's qualifying wages for a 965
taxable year and remit that tax only to the municipal 966
corporation in which the employer's fixed location is located if 967
the employer qualifies as a small employer as defined in section 968
718.01 of the Revised Code. 969

To determine whether an employer qualifies as a small 970
employer for a taxable year, a tax administrator may require the 971
employer to provide the tax administrator with the employer's 972
federal income tax return for the preceding taxable year. 973

(F) Divisions (B) (1) and (D) of this section shall not 974
apply to the extent that a tax administrator and an employer 975
enter into an agreement regarding the manner in which the 976
employer shall comply with the requirements of section 718.03 of 977
the Revised Code. 978

(G) Divisions (B), (C), (D), (F), and (H) of this section 979
shall not apply to the extent a tax administrator and employer 980
enter into an agreement under section 718.032 of the Revised 981
Code. 982

(H) In the case of a person performing personal services 983

at a petroleum refinery located in a municipal corporation that 984
imposes a tax on income, an employer is not required to withhold 985
municipal income tax on the qualifying wages of such a person if 986
the person performs those services on twelve or fewer days in a 987
calendar year, unless the principal place of work of the 988
employer is located in another municipal corporation in this 989
state that imposes a tax applying to compensation paid to the 990
person for services performed on those days and the person is 991
not liable to that other municipal corporation for tax on the 992
compensation paid for such services. For the purposes of this 993
division, a petroleum refinery is a facility with a standard 994
industrial classification code facility classification of 2911, 995
petroleum refining. 996

Notwithstanding division (D) of this section, if, during a 997
calendar year, the number of days an individual performs 998
personal services at a petroleum refinery exceeds twelve, the 999
employer shall withhold tax for the municipal corporation for 1000
the first twelve days for which the employer paid qualifying 1001
wages to the individual and for all subsequent days in the 1002
calendar year on which the individual performed services at the 1003
refinery. 1004

Sec. 718.03. (A) (1) Each employer, agent of an employer, 1005
or other payer located or doing business in a municipal 1006
corporation that imposes a tax on income in accordance with this 1007
chapter shall withhold from each employee an amount equal to the 1008
qualifying wages of the employee earned by the employee in the 1009
municipal corporation multiplied by the applicable rate of the 1010
municipal corporation's income tax, except for qualifying wages 1011
for which withholding is not required under section 718.011 of 1012
the Revised Code or division (D) or (F) of this section. If the 1013
employer and the tax administration of the municipal corporation 1014

have an agreement under section 718.032 of the Revised Code, the 1015
amount withheld shall equal the percentage or amount of 1016
qualifying wages prescribed in the agreement multiplied by the 1017
applicable rate of the income tax. An employer, agent of an 1018
employer, or other payer shall deduct and withhold the tax from 1019
qualifying wages on the date that the employer, agent, or other 1020
payer directly, indirectly, or constructively pays the 1021
qualifying wages to, or credits the qualifying wages to the 1022
benefit of, the employee. 1023

(2) In addition to withholding the amounts required under 1024
division (A)(1) of this section, an employer, agent of an 1025
employer, or other payer may also deduct and withhold, on the 1026
request of an employee, taxes for the municipal corporation in 1027
which the employee is a resident. 1028

(B)(1) Except as provided in division (B)(2) of this 1029
section, an employer, agent of an employer, or other payer shall 1030
remit to the tax administrator of a municipal corporation the 1031
greater of the income taxes deducted and withheld or the income 1032
taxes required to be deducted and withheld by the employer, 1033
agent, or other payer according to the following schedule: 1034

(a) Taxes required to be deducted and withheld shall be 1035
remitted monthly to the tax administrator if the total taxes 1036
deducted and withheld or required to be deducted and withheld by 1037
the employer, agent, or other payer on behalf of the municipal 1038
corporation in the preceding calendar year exceeded two thousand 1039
three hundred ninety-nine dollars, or if the total amount of 1040
taxes deducted and withheld or required to be deducted and 1041
withheld on behalf of the municipal corporation in any month of 1042
the preceding calendar quarter exceeded two hundred dollars. 1043
Payments under division (B)(1)(a) of this section shall be made 1044

to the tax administrator not later than fifteen days after the 1045
last day of each month. 1046

(b) Any employer, agent of an employer, or other payer not 1047
required to make payments under division (B)(1)(a) of this 1048
section of taxes required to be deducted and withheld shall make 1049
quarterly payments to the tax administrator not later than the 1050
last day of the month following the last day of each calendar 1051
quarter. 1052

(2) Notwithstanding division (B)(1) of this section, a 1053
municipal corporation may require, by resolution, ordinance, or 1054
rule, an employer, agent of an employer, or other payer to do 1055
any of the following: 1056

(a) Remit taxes deducted and withheld semimonthly to the 1057
tax administrator if the total taxes deducted and withheld or 1058
required to be deducted and withheld on behalf of the municipal 1059
corporation in the preceding calendar year exceeded eleven 1060
thousand nine hundred ninety-nine dollars, or if the total 1061
amount of taxes deducted and withheld or required to be deducted 1062
and withheld on behalf of the municipal corporation in any month 1063
of the preceding calendar year exceeded one thousand dollars. 1064
The payment under division (B)(2)(a) of this section shall be 1065
made to the tax administrator not later than one of the 1066
following: 1067

(i) If the taxes were deducted and withheld or required to 1068
be deducted and withheld during the first fifteen days of a 1069
month, the third banking day after the fifteenth day of that 1070
month; 1071

(ii) If the taxes were deducted and withheld or required 1072
to be deducted and withheld after the fifteenth day of a month 1073

and before the first day of the immediately following month, the 1074
third banking day after the last day of that month. 1075

(b) Make payment by electronic funds transfer to the tax 1076
administrator of all taxes deducted and withheld on behalf of 1077
the municipal corporation if the employer, agent of an employer, 1078
or other payer is required to make payments electronically for 1079
the purpose of paying federal taxes withheld on payments to 1080
employees under section 6302 of the Internal Revenue Code, 26 1081
C.F.R. 31.6302-1, or any other federal statute or regulation. 1082
The payment of tax by electronic funds transfer under this 1083
division does not affect an employer's, agent's, or other 1084
payer's obligation to file any return as required under this 1085
section. 1086

(C) An employer, agent of an employer, or other payer 1087
shall make and file a return showing the amount of tax withheld 1088
by the employer, agent, or other payer from the qualifying wages 1089
of each employee and remitted to the tax administrator. Unless 1090
the tax administrator requires all individual taxpayers to file 1091
a tax return under section 718.05 of the Revised Code, a return 1092
filed by an employer, agent, or other payer under this division 1093
shall be accepted by a tax administrator and municipal 1094
corporation as the return required of an employee whose sole 1095
income subject to the tax under this chapter is the qualifying 1096
wages reported by the employee's employer, agent of an employer, 1097
or other payer. 1098

(D) An employer, agent of an employer, or other payer is 1099
not required to withhold municipal income tax with respect to an 1100
individual's disqualifying disposition of an incentive stock 1101
option if, at the time of the disqualifying disposition, the 1102
individual is not an employee of either the corporation with 1103

respect to whose stock the option has been issued or of such 1104
corporation's successor entity. 1105

(E) (1) An employee is not relieved from liability for a 1106
tax by the failure of the employer, agent of an employer, or 1107
other payer to withhold the tax as required under this chapter 1108
or by the employer's, agent's, or other payer's exemption from 1109
the requirement to withhold the tax. 1110

(2) The failure of an employer, agent of an employer, or 1111
other payer to remit to the municipal corporation the tax 1112
withheld relieves the employee from liability for that tax 1113
unless the employee colluded with the employer, agent, or other 1114
payer in connection with the failure to remit the tax withheld. 1115

(F) Compensation deferred before June 26, 2003, is not 1116
subject to any municipal corporation income tax or municipal 1117
income tax withholding requirement to the extent the deferred 1118
compensation does not constitute qualifying wages at the time 1119
the deferred compensation is paid or distributed. 1120

(G) Each employer, agent of an employer, or other payer 1121
required to withhold taxes is liable for the payment of that 1122
amount required to be withheld, whether or not such taxes have 1123
been withheld, and such amount shall be deemed to be held in 1124
trust for the municipal corporation until such time as the 1125
withheld amount is remitted to the tax administrator. 1126

(H) On or before the last day of February of each year, an 1127
employer shall file a withholding reconciliation return with the 1128
tax administrator listing the names, addresses, and social 1129
security numbers of all employees from whose qualifying wages 1130
tax was withheld or should have been withheld for the municipal 1131
corporation during the preceding calendar year, the amount of 1132

tax withheld, if any, from each such employee, the total amount 1133
of qualifying wages paid to such employee during the preceding 1134
calendar year, the name of every other municipal corporation for 1135
which tax was withheld or should have been withheld from such 1136
employee during the preceding calendar year, any other 1137
information required for federal income tax reporting purposes 1138
on Internal Revenue Service form W-2 or its equivalent form with 1139
respect to such employee, and other information as may be 1140
required by the tax administrator. 1141

(I) The officer or the employee of the employer, agent of 1142
an employer, or other payer with control or direct supervision 1143
of or charged with the responsibility for withholding the tax or 1144
filing the reports and making payments as required by this 1145
section, shall be personally liable for a failure to file a 1146
report or pay the tax due as required by this section. The 1147
dissolution of an employer, agent of an employer, or other payer 1148
does not discharge the officer's or employee's liability for a 1149
failure of the employer, agent of an employer, or other payer to 1150
file returns or pay any tax due. 1151

(J) An employer is required to deduct and withhold 1152
municipal income tax on tips and gratuities received by the 1153
employer's employees and constituting qualifying wages only to 1154
the extent that the tips and gratuities are under the employer's 1155
control. For the purposes of this division, a tip or gratuity is 1156
under the employer's control if the tip or gratuity is paid by 1157
the customer to the employer for subsequent remittance to the 1158
employee, or if the customer pays the tip or gratuity by credit 1159
card, debit card, or other electronic means. 1160

(K) A tax administrator shall consider any tax withheld by 1161
an employer at the request of an employee when such tax is not 1162

otherwise required to be withheld by this chapter to be tax 1163
required to be withheld and remitted for the purposes of this 1164
section. 1165

Sec. 718.032. (A) As used in this section: 1166

(1) "Qualifying employer" means an employer, agent of an 1167
employer, or other payer that, but for an agreement entered into 1168
under this section and section 718.011 of the Revised Code, 1169
would be required to withhold tax from an employee's qualifying 1170
wages during the employer's withholding period to more than one 1171
municipal corporation in which the employee is not a resident 1172
under section 718.03 of the Revised Code. 1173

(2) "Transient employee" means an employee earning 1174
qualifying wages in locations both within and outside a 1175
municipal corporation during the employer's withholding period. 1176

(3) "Employer's withholding period" means the withholding 1177
schedule applicable to an employer, agent of an employer, or 1178
other payer under division (B) of section 718.03 of the Revised 1179
Code, as required by a municipal corporation. 1180

(B) A qualifying employer may enter into an agreement with 1181
the tax administrator prescribing a percentage or amount of the 1182
qualifying wages of each transient employee earning qualifying 1183
wages in the municipal corporation that will be subject to 1184
withholding for the purpose of complying with section 718.03 of 1185
the Revised Code during the employer's withholding period. This 1186
percentage or amount for each of the employer's withholding 1187
periods shall be based on the proportion of the qualifying 1188
employer's net profits allocated to the municipal corporation 1189
under section 718.02 of the Revised Code and any other factor or 1190
analytics authorized by the agreement. The agreement shall 1191

prescribe the length of time during which it is to be effective. 1192

A tax administrator may rescind an agreement entered into 1193
under this section if the tax administrator determines that 1194
information furnished by the employer to calculate the 1195
withholding amount or percentage required under the agreement 1196
was submitted by a qualifying employer in bad faith. Upon an 1197
agreement's expiration or rescission, the qualifying employer 1198
shall withhold taxes from transient employees earning qualifying 1199
wages in that municipal corporation in accordance with section 1200
718.03 of the Revised Code, subject to section 718.011 of the 1201
Revised Code. 1202

Section 2. That existing sections 718.01, 718.011, and 1203
718.03 of the Revised Code are hereby repealed. 1204