

As Reported by the House Ways and Means Committee

134th General Assembly

Regular Session

2021-2022

Sub. H. B. No. 157

Representatives Jordan, Edwards

Cosponsors: Representatives Seitz, Jones, Merrin, Riedel, McClain

A BILL

To amend Section 29 of H.B. 197 of the 133rd
General Assembly to modify municipal income tax
employer withholding rules for COVID-19-related
work-from-home employees.

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

Section 1. That Section 29 of H.B. 197 of the 133rd
General Assembly be amended to read as follows:

Sec. 29. (A) Notwithstanding section 718.011 of the
Revised Code, and for the purposes of Chapter 718. of the
Revised Code, ~~during the period of the emergency declared by~~
~~Executive Order 2020-01D, issued on and after March 9, 2020, and~~
~~for thirty days after the conclusion of that period~~but before
January 1, 2022, any day on which an employee ~~performs, in~~
response to the COVID-19 pandemic, performs personal services at
a location, including the employee's home, to which the employee
is required to report for employment duties because of the
declaration or other location that is not the employee's
principal place of work shall be deemed to be a day performing
personal services at the employee's principal place of work.

(B) Nothing in this section prohibits an employer from 19
assigning an employee to a new or different work location that 20
may result in a change to the employee's principal place of work 21
during the time period described in division (A) of this 22
section. 23

(C) Nothing in this section prohibits an employer from 24
withholding tax on an employee's qualifying wages in accordance 25
with section 718.03 of the Revised Code. 26

(D) On and after January 1, 2021, this section applies 27
only for the purposes of municipal income tax withholding under 28
section 718.011 of the Revised Code and for apportioning or 29
situsing the employer's net profit under section 718.02 or 30
718.82 of the Revised Code, and not for purposes of determining 31
the location at which a nonresident employee's work was 32
completed, services were performed or rendered, or activities 33
were conducted for the purpose of determining the employee's 34
municipal income tax liability. 35

Section 2. That existing Section 29 of H.B. 197 of the 36
133rd General Assembly is hereby repealed. 37

Section 3. If an employer withheld and remitted municipal 38
income tax from an employee's qualifying wages earned between 39
March 9, 2020, and December 31, 2021, to the municipal 40
corporation in which the employee's principal place of work is 41
located, the employer shall not be assessed any tax, penalty, or 42
interest by any other municipal corporation for failure to situs 43
or apportion those wages to the other municipal corporation for 44
municipal net profit tax purposes or for failure to withhold 45
municipal income tax from such wages to the other municipal 46
corporation. 47

Section 4. The amendment by this act of Section 29 of H.B. 197 of the 133rd General Assembly is remedial in nature and applies to any municipal income tax withholding obligation incurred, and any qualifying wages earned, between January 1, 2021, and December 31, 2021.

Because taxable years ending in 2020 have ended before the effective date of this section, the amendment by this act of Section 29 of H.B. 197 of the 133rd General Assembly shall not be construed to affect the interpretation and applicability of that section to qualifying wages withheld in 2020. Such withholdings shall be governed by that section as enacted by that act and not by the amendment to that section by this act.

Section 5. Notwithstanding section 718.19 of the Revised Code, with respect to any request for a refund of taxes withheld by an employer from qualifying wages pursuant to Section 29 of H.B. 197 of the 133rd General Assembly, a tax administrator may not require, as a condition for processing the request, any statement or other documentation from the employer other than a statement verifying the number of days the employee worked at the employee's principal place of work during the taxable year and that the employer did not refund any withheld taxes to the employee.