

As Introduced

135th General Assembly

Regular Session

2023-2024

H. B. No. 121

Representatives Robb Blasdel, Mathews

Cosponsors: Representatives Roemer, Seitz



A BILL

To amend sections 718.02 and 718.82; to amend, for 1
the purpose of adopting a new section number as 2
indicated in parentheses, section 718.021 3
(718.17); and to enact new section 718.021 and 4
section 718.821 of the Revised Code to allow 5
businesses with remote workers to use a modified 6
municipal income tax apportionment formula. 7

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

Section 1. That sections 718.02 and 718.82 be amended; 8
section 718.021 (718.17) be amended for the purpose of adopting 9
a new section number as indicated in parentheses; and new 10
section 718.021 and section 718.821 of the Revised Code be 11
enacted to read as follows: 12

Sec. 718.02. This section applies to any taxpayer engaged 13
in a business or profession in a municipal corporation that 14
imposes an income tax in accordance with this chapter, unless 15
the taxpayer is an individual who resides in the municipal 16
corporation or the taxpayer is an electric company, combined 17
company, or telephone company that is subject to and required to 18

file reports under Chapter 5745. of the Revised Code. 19

(A) Except as otherwise provided in section 718.021 of the 20
Revised Code and division (B) of this section, net profit from a 21
business or profession conducted both within and without the 22
boundaries of a municipal corporation shall be considered as 23
having a taxable situs in the municipal corporation for purposes 24
of municipal income taxation in the same proportion as the 25
average ratio of the following: 26

(1) The average original cost of the real property and 27
tangible personal property owned or used by the taxpayer in the 28
business or profession in the municipal corporation during the 29
taxable period to the average original cost of all of the real 30
and tangible personal property owned or used by the taxpayer in 31
the business or profession during the same period, wherever 32
situated. 33

As used in the preceding paragraph, tangible personal or 34
real property shall include property rented or leased by the 35
taxpayer and the value of such property shall be determined by 36
multiplying the annual rental thereon by eight; 37

(2) Wages, salaries, and other compensation paid during 38
the taxable period to individuals employed in the business or 39
profession for services performed in the municipal corporation 40
to wages, salaries, and other compensation paid during the same 41
period to individuals employed in the business or profession, 42
wherever the individual's services are performed, excluding 43
compensation from which taxes are not required to be withheld 44
under section 718.011 of the Revised Code; 45

(3) Total gross receipts of the business or profession 46
from sales and rentals made and services performed during the 47

taxable period in the municipal corporation to total gross 48
receipts of the business or profession during the same period 49
from sales, rentals, and services, wherever made or performed. 50

(B) (1) If the apportionment factors described in division 51
(A) of this section do not fairly represent the extent of a 52
taxpayer's business activity in a municipal corporation, the 53
taxpayer may request, or the tax administrator of the municipal 54
corporation may require, that the taxpayer use, with respect to 55
all or any portion of the income of the taxpayer, an alternative 56
apportionment method involving one or more of the following: 57

(a) Separate accounting; 58

(b) The exclusion of one or more of the factors; 59

(c) The inclusion of one or more additional factors that 60
would provide for a more fair apportionment of the income of the 61
taxpayer to the municipal corporation; 62

(d) A modification of one or more of the factors. 63

(2) A taxpayer request to use an alternative apportionment 64
method shall be in writing and shall accompany a tax return, 65
timely filed appeal of an assessment, or timely filed amended 66
tax return. The taxpayer may use the requested alternative 67
method unless the tax administrator denies the request in an 68
assessment issued within the period prescribed by division (A) 69
of section 718.12 of the Revised Code. 70

(3) A tax administrator may require a taxpayer to use an 71
alternative apportionment method as described in division (B) (1) 72
of this section only by issuing an assessment to the taxpayer 73
within the period prescribed by division (A) of section 718.12 74
of the Revised Code. 75

(4) Nothing in division (B) of this section nullifies or 76
otherwise affects any alternative apportionment arrangement 77
approved by a tax administrator or otherwise agreed upon by both 78
the tax administrator and taxpayer before January 1, 2016. 79

(C) As used in division (A)(2) of this section, "wages, 80
salaries, and other compensation" includes only wages, salaries, 81
or other compensation paid to an employee for services performed 82
at any of the following locations: 83

(1) A location that is owned, controlled, or used by, 84
rented to, or under the possession of one of the following: 85

(a) The employer; 86

(b) A vendor, customer, client, or patient of the 87
employer, or a related member of such a vendor, customer, 88
client, or patient; 89

(c) A vendor, customer, client, or patient of a person 90
described in division (C)(1)(b) of this section, or a related 91
member of such a vendor, customer, client, or patient. 92

(2) Any location at which a trial, appeal, hearing, 93
investigation, inquiry, review, court-martial, or similar 94
administrative, judicial, or legislative matter or proceeding is 95
being conducted, provided that the compensation is paid for 96
services performed for, or on behalf of, the employer or that 97
the employee's presence at the location directly or indirectly 98
benefits the employer; 99

(3) Any other location, if the tax administrator 100
determines that the employer directed the employee to perform 101
the services at the other location in lieu of a location 102
described in division (C)(1) or (2) of this section solely in 103
order to avoid or reduce the employer's municipal income tax 104

liability. If a tax administrator makes such a determination, 105
the employer may dispute the determination by establishing, by a 106
preponderance of the evidence, that the tax administrator's 107
determination was unreasonable. 108

(D) For the purposes of division (A)(3) of this section, 109
and except as provided in section 718.021 of the Revised Code, 110
receipts from sales and rentals made and services performed 111
shall be sitused to a municipal corporation as follows: 112

(1) Gross receipts from the sale of tangible personal 113
property shall be sitused to the municipal corporation only if, 114
regardless of where title passes, the property meets either of 115
the following criteria: 116

(a) The property is shipped to or delivered within the 117
municipal corporation from a stock of goods located within the 118
municipal corporation. 119

(b) The property is delivered within the municipal 120
corporation from a location outside the municipal corporation, 121
provided the taxpayer is regularly engaged through its own 122
employees in the solicitation or promotion of sales within such 123
municipal corporation and the sales result from such 124
solicitation or promotion. 125

(2) Gross receipts from the sale of services shall be 126
sitused to the municipal corporation to the extent that such 127
services are performed in the municipal corporation. 128

(3) To the extent included in income, gross receipts from 129
the sale of real property located in the municipal corporation 130
shall be sitused to the municipal corporation. 131

(4) To the extent included in income, gross receipts from 132
rents and royalties from real property located in the municipal 133

corporation shall be sitused to the municipal corporation.	134
(5) Gross receipts from rents and royalties from tangible	135
personal property shall be sitused to the municipal corporation	136
based upon the extent to which the tangible personal property is	137
used in the municipal corporation.	138
(E) The net profit received by an individual taxpayer from	139
the rental of real estate owned directly by the individual or by	140
a disregarded entity owned by the individual shall be subject to	141
tax only by the municipal corporation in which the property	142
generating the net profit is located and the municipal	143
corporation in which the individual taxpayer that receives the	144
net profit resides.	145
A municipal corporation shall allow such taxpayers to	146
elect to use separate accounting for the purpose of calculating	147
net profit sitused under this division to the municipal	148
corporation in which the property is located.	149
(F) (1) Except as provided in division (F) (2) of this	150
section, commissions received by a real estate agent or broker	151
relating to the sale, purchase, or lease of real estate shall be	152
sitused to the municipal corporation in which the real estate is	153
located. Net profit reported by the real estate agent or broker	154
shall be allocated to a municipal corporation based upon the	155
ratio of the commissions the agent or broker received from the	156
sale, purchase, or lease of real estate located in the municipal	157
corporation to the commissions received from the sale, purchase,	158
or lease of real estate everywhere in the taxable year.	159
(2) An individual who is a resident of a municipal	160
corporation that imposes a municipal income tax shall report the	161
individual's net profit from all real estate activity on the	162

individual's annual tax return for that municipal corporation. 163
The individual may claim a credit for taxes the individual paid 164
on such net profit to another municipal corporation to the 165
extent that such a credit is allowed under the municipal income 166
tax ordinance, or rules of the municipal corporation of 167
residence. 168

(G) If, in computing a taxpayer's adjusted federal taxable 169
income, the taxpayer deducted any amount with respect to a stock 170
option granted to an employee, and if the employee is not 171
required to include in the employee's income any such amount or 172
a portion thereof because it is exempted from taxation under 173
divisions (C) (12) and (R) (1) (d) of section 718.01 of the Revised 174
Code by a municipal corporation to which the taxpayer has 175
apportioned a portion of its net profit, the taxpayer shall add 176
the amount that is exempt from taxation to the taxpayer's net 177
profit that was apportioned to that municipal corporation. In no 178
case shall a taxpayer be required to add to its net profit that 179
was apportioned to that municipal corporation any amount other 180
than the amount upon which the employee would be required to pay 181
tax were the amount related to the stock option not exempted 182
from taxation. 183

This division applies solely for the purpose of making an 184
adjustment to the amount of a taxpayer's net profit that was 185
apportioned to a municipal corporation under this section. 186

(H) When calculating the ratios described in division (A) 187
of this section for the purposes of that division or division 188
(B) of this section, the owner of a disregarded entity shall 189
include in the owner's ratios the property, payroll, and gross 190
receipts of such disregarded entity. 191

Sec. 718.021. (A) As used in this section: 192

(1) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria: 193
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(a) The taxpayer has assigned the individual to a qualifying reporting location. 199
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(b) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location. 201
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(2) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. 203
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"Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year. 208
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(3) "Reporting location" means either of the following: 213

(a) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer; 214
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(b) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under section 718.03 of the Revised Code on qualifying wages paid to an employee for the 218
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performance of personal services at that location. 222

(4) "Qualifying reporting location" means one of the 223
following: 224

(a) The reporting location in this state at which an 225
employee or owner performs services for the taxpayer on a 226
regular or periodic basis during the taxable year; 227

(b) If no reporting location exists in this state for an 228
employee or owner under division (A) (4) (a) of this section, the 229
reporting location in this state at which the employee's or 230
owner's supervisor regularly or periodically reports during the 231
taxable year; 232

(c) If no reporting location exists in this state for an 233
employee or owner under division (A) (4) (a) or (b) of this 234
section, the location that the taxpayer otherwise assigns as the 235
employee's or owner's qualifying reporting location, provided 236
the assignment is made in good faith and is recorded and 237
maintained in the taxpayer's business records. A taxpayer may 238
change the qualifying reporting location designated for an 239
employee or owner under this division at any time. 240

(B) A taxpayer may elect to apply the provisions of this 241
section to the apportionment of its net profit from a business 242
or profession. For taxpayers that make this election, the 243
provisions of section 718.02 of the Revised Code apply to such 244
apportionment except as otherwise provided in this section. 245

A taxpayer shall make the election allowed under this 246
section in writing on or with the taxpayer's net profit return 247
or, if applicable, a timely filed amended net profit return or 248
appeal of an assessment. The election applies to the taxable 249
year for which that return or appeal is filed and for all 250

subsequent taxable years, until the taxpayer revokes the 251
election. 252

The taxpayer shall make the initial election with the tax 253
administrator of each municipal corporation with which, after 254
applying the apportionment provisions authorized in this 255
section, the taxpayer is required to file a net profit tax 256
return for that taxable year. A taxpayer shall not be required 257
to notify the tax administrator of a municipal corporation in 258
which a qualifying remote employee's or owner's qualifying 259
remote work location is located, unless the taxpayer is 260
otherwise required to file a net profit return with that 261
municipal corporation due to business operations that are 262
unrelated to the employee's or owner's activity at the 263
qualifying remote work location or due to tax withholding 264
requirements. 265

After the taxpayer makes the initial election, the 266
election applies to every municipal corporation in which the 267
taxpayer conducts business. The taxpayer shall not be required 268
to file a net profit return with a municipal corporation solely 269
because a qualifying remote employee's or owner's qualifying 270
remote work location is located in such municipal corporation. 271

Nothing in this section prohibits a taxpayer from making a 272
new election under this section after properly revoking a prior 273
election. 274

(C) For the purpose of calculating the ratios described in 275
division (A) of section 718.02 of the Revised Code, all of the 276
following apply to a taxpayer that has made the election 277
described in division (B) of this section: 278

(1) For the purpose of division (A)(1) of section 718.02 279

of the Revised Code, the average original cost of any tangible 280
personal property used by a qualifying remote employee or owner 281
at that individual's qualifying remote work location shall be 282
sitused to that individual's qualifying reporting location. 283

(2) For the purpose of division (A)(2) of section 718.02 284
of the Revised Code, any wages, salaries, and other compensation 285
paid during the taxable period to a qualifying remote employee 286
or owner for services performed at that individual's qualifying 287
remote work location shall be sitused to that individual's 288
qualifying reporting location. 289

(3) For the purpose of division (A)(3) of section 718.02 290
of the Revised Code, and notwithstanding division (D) of that 291
section, any gross receipts of the business or profession from 292
services performed during the taxable period by a qualifying 293
remote employee or owner for services performed at that 294
individual's qualifying remote work location shall be sitused to 295
that individual's qualifying reporting location. 296

(D) Nothing in this section prevents a taxpayer from 297
requesting, or a tax administrator from requiring, that the 298
taxpayer use, with respect to all or a portion of the income of 299
the taxpayer, an alternative apportionment method as described 300
in division (B) of section 718.02 of the Revised Code. However, 301
a tax administrator shall not require an alternative 302
apportionment method in such a manner that it would require a 303
taxpayer to file a net profit return with a municipal 304
corporation solely because a qualifying remote employee's or 305
owner's qualifying remote work location is located in that 306
municipal corporation. 307

(E) Except as otherwise provided in this section, nothing 308
in this section is intended to affect the withholding of taxes 309

on qualifying wages pursuant to sections 718.011 and 718.03 of 310
the Revised Code. 311

Sec. ~~718.021~~ 718.17. (A) As used in this section: 312

(1) "Nonqualified deferred compensation plan" means a 313
compensation plan described in section 3121(v) (2) (C) of the 314
Internal Revenue Code. 315

(2) (a) Except as provided in division (A) (2) (b) of this 316
section, "qualifying loss" means the excess, if any, of the 317
total amount of compensation the payment of which is deferred 318
pursuant to a nonqualified deferred compensation plan over the 319
total amount of income the taxpayer has recognized for federal 320
income tax purposes for all taxable years on a cumulative basis 321
as compensation with respect to the taxpayer's receipt of money 322
and property attributable to distributions in connection with 323
the nonqualified deferred compensation plan. 324

(b) If, for one or more taxable years, the taxpayer has 325
not paid to one or more municipal corporations income tax 326
imposed on the entire amount of compensation the payment of 327
which is deferred pursuant to a nonqualified deferred 328
compensation plan, then the "qualifying loss" is the product of 329
the amount resulting from the calculation described in division 330
(A) (2) (a) of this section computed without regard to division 331
(A) (2) (b) of this section and a fraction the numerator of which 332
is the portion of such compensation on which the taxpayer has 333
paid income tax to one or more municipal corporations and the 334
denominator of which is the total amount of compensation the 335
payment of which is deferred pursuant to a nonqualified deferred 336
compensation plan. 337

(c) With respect to a nonqualified deferred compensation 338

plan, the taxpayer sustains a qualifying loss only in the 339
taxable year in which the taxpayer receives the final 340
distribution of money and property pursuant to that nonqualified 341
deferred compensation plan. 342

(3) "Qualifying tax rate" means the applicable tax rate 343
for the taxable year for which the taxpayer paid income tax to a 344
municipal corporation with respect to any portion of the total 345
amount of compensation the payment of which is deferred pursuant 346
to a nonqualified deferred compensation plan. If different tax 347
rates applied for different taxable years, then the "qualifying 348
tax rate" is a weighted average of those different tax rates. 349
The weighted average shall be based upon the tax paid to the 350
municipal corporation each year with respect to the nonqualified 351
deferred compensation plan. 352

(B) (1) Except as provided in division (D) of this section, 353
a refundable credit shall be allowed against the income tax 354
imposed by a municipal corporation for each qualifying loss 355
sustained by a taxpayer during the taxable year. The amount of 356
the credit shall be equal to the product of the qualifying loss 357
and the qualifying tax rate. 358

(2) A taxpayer shall claim the credit allowed under this 359
section from each municipal corporation to which the taxpayer 360
paid municipal income tax with respect to the nonqualified 361
deferred compensation plan in one or more taxable years. 362

(3) If a taxpayer has paid tax to more than one municipal 363
corporation with respect to the nonqualified deferred 364
compensation plan, the amount of the credit that a taxpayer may 365
claim from each municipal corporation shall be calculated on the 366
basis of each municipal corporation's proportionate share of the 367
total municipal corporation income tax paid by the taxpayer to 368

all municipal corporations with respect to the nonqualified 369
deferred compensation plan. 370

(4) In no case shall the amount of the credit allowed 371
under this section exceed the cumulative income tax that a 372
taxpayer has paid to a municipal corporation for all taxable 373
years with respect to the nonqualified deferred compensation 374
plan. 375

(C) (1) For purposes of this section, municipal corporation 376
income tax that has been withheld with respect to a nonqualified 377
deferred compensation plan shall be considered to have been paid 378
by the taxpayer with respect to the nonqualified deferred 379
compensation plan. 380

(2) Any municipal income tax that has been refunded or 381
otherwise credited for the benefit of the taxpayer with respect 382
to a nonqualified deferred compensation plan shall not be 383
considered to have been paid to the municipal corporation by the 384
taxpayer. 385

(D) The credit allowed under this section is allowed only 386
to the extent the taxpayer's qualifying loss is attributable to: 387

(1) The insolvency or bankruptcy of the employer who had 388
established the nonqualified deferred compensation plan; or 389

(2) The employee's failure or inability to satisfy all of 390
the employer's terms and conditions necessary to receive the 391
nonqualified deferred compensation. 392

Sec. 718.82. This section applies to any taxpayer that is 393
engaged in a business or profession in a municipal corporation 394
and that has made the election under section 718.80 of the 395
Revised Code. 396

(A) Except as otherwise provided in section 718.821 of the 397
Revised Code and division (B) of this section, net profit from a 398
business or profession conducted both within and without the 399
boundaries of a municipal corporation shall be considered as 400
having a taxable situs in the municipal corporation for purposes 401
of municipal income taxation in the same proportion as the 402
average ratio of the following: 403

(1) The average original cost of the real property and 404
tangible personal property owned or used by the taxpayer in the 405
business or profession in the municipal corporation during the 406
taxable period to the average original cost of all of the real 407
and tangible personal property owned or used by the taxpayer in 408
the business or profession during the same period, wherever 409
situated. 410

As used in the preceding paragraph, tangible personal or 411
real property shall include property rented or leased by the 412
taxpayer and the value of such property shall be determined by 413
multiplying the annual rental thereon by eight; 414

(2) Wages, salaries, and other compensation paid during 415
the taxable period to individuals employed in the business or 416
profession for services performed in the municipal corporation 417
to wages, salaries, and other compensation paid during the same 418
period to individuals employed in the business or profession, 419
wherever the individual's services are performed, excluding 420
compensation from which taxes are not required to be withheld 421
under section 718.011 of the Revised Code; 422

(3) Total gross receipts of the business or profession 423
from sales and rentals made and services performed during the 424
taxable period in the municipal corporation to total gross 425
receipts of the business or profession during the same period 426

from sales, rentals, and services, wherever made or performed.	427
(B) (1) If the apportionment factors described in division	428
(A) of this section do not fairly represent the extent of a	429
taxpayer's business activity in a municipal corporation, the	430
taxpayer may request, or the tax commissioner may require, that	431
the taxpayer use, with respect to all or any portion of the	432
income of the taxpayer, an alternative apportionment method	433
involving one or more of the following:	434
(a) Separate accounting;	435
(b) The exclusion of one or more of the factors;	436
(c) The inclusion of one or more additional factors that	437
would provide for a more fair apportionment of the income of the	438
taxpayer to the municipal corporation;	439
(d) A modification of one or more of the factors.	440
(2) A taxpayer request to use an alternative apportionment	441
method shall be in writing and shall accompany a tax return,	442
timely filed appeal of an assessment, or timely filed amended	443
tax return. The taxpayer may use the requested alternative	444
method unless the tax commissioner denies the request in an	445
assessment issued within the period prescribed by division (A)	446
of section 718.90 of the Revised Code.	447
(3) The tax commissioner may require a taxpayer to use an	448
alternative apportionment method as described in division (B) (1)	449
of this section only by issuing an assessment to the taxpayer	450
within the period prescribed by division (A) of section 718.90	451
of the Revised Code.	452
(C) As used in division (A) (2) of this section, "wages,	453
salaries, and other compensation" includes only wages, salaries,	454

or other compensation paid to an employee for services performed 455
at any of the following locations: 456

(1) A location that is owned, controlled, or used by, 457
rented to, or under the possession of one of the following: 458

(a) The employer; 459

(b) A vendor, customer, client, or patient of the 460
employer, or a related member of such a vendor, customer, 461
client, or patient; 462

(c) A vendor, customer, client, or patient of a person 463
described in division (C) (1) (b) of this section, or a related 464
member of such a vendor, customer, client, or patient. 465

(2) Any location at which a trial, appeal, hearing, 466
investigation, inquiry, review, court-martial, or similar 467
administrative, judicial, or legislative matter or proceeding is 468
being conducted, provided that the compensation is paid for 469
services performed for, or on behalf of, the employer or that 470
the employee's presence at the location directly or indirectly 471
benefits the employer; 472

(3) Any other location, if the tax commissioner determines 473
that the employer directed the employee to perform the services 474
at the other location in lieu of a location described in 475
division (C) (1) or (2) of this section solely in order to avoid 476
or reduce the employer's municipal income tax liability. If the 477
tax commissioner makes such a determination, the employer may 478
dispute the determination by establishing, by a preponderance of 479
the evidence, that the tax commissioner's determination was 480
unreasonable. 481

(D) For the purposes of division (A) (3) of this section, 482
and except as provided in section 718.821 of the Revised Code, 483

receipts from sales and rentals made and services performed	484
shall be sitused to a municipal corporation as follows:	485
(1) Gross receipts from the sale of tangible personal	486
property shall be sitused to the municipal corporation only if,	487
regardless of where title passes, the property meets either of	488
the following criteria:	489
(a) The property is shipped to or delivered within the	490
municipal corporation from a stock of goods located within the	491
municipal corporation.	492
(b) The property is delivered within the municipal	493
corporation from a location outside the municipal corporation,	494
provided the taxpayer is regularly engaged through its own	495
employees in the solicitation or promotion of sales within such	496
municipal corporation and the sales result from such	497
solicitation or promotion.	498
(2) Gross receipts from the sale of services shall be	499
sitused to the municipal corporation to the extent that such	500
services are performed in the municipal corporation.	501
(3) To the extent included in income, gross receipts from	502
the sale of real property located in the municipal corporation	503
shall be sitused to the municipal corporation.	504
(4) To the extent included in income, gross receipts from	505
rents and royalties from real property located in the municipal	506
corporation shall be sitused to the municipal corporation.	507
(5) Gross receipts from rents and royalties from tangible	508
personal property shall be sitused to the municipal corporation	509
based upon the extent to which the tangible personal property is	510
used in the municipal corporation.	511

(E) Commissions received by a real estate agent or broker 512
relating to the sale, purchase, or lease of real estate shall be 513
situated to the municipal corporation in which the real estate is 514
located. Net profit reported by the real estate agent or broker 515
shall be allocated to a municipal corporation based upon the 516
ratio of the commissions the agent or broker received from the 517
sale, purchase, or lease of real estate located in the municipal 518
corporation to the commissions received from the sale, purchase, 519
or lease of real estate everywhere in the taxable year. 520

(F) If, in computing a taxpayer's adjusted federal taxable 521
income, the taxpayer deducted any amount with respect to a stock 522
option granted to an employee, and if the employee is not 523
required to include in the employee's income any such amount or 524
a portion thereof because it is exempted from taxation under 525
divisions (C) (12) and (R) (1) (d) of section 718.01 of the Revised 526
Code by a municipal corporation to which the taxpayer has 527
apportioned a portion of its net profit, the taxpayer shall add 528
the amount that is exempt from taxation to the taxpayer's net 529
profit that was apportioned to that municipal corporation. In no 530
case shall a taxpayer be required to add to its net profit that 531
was apportioned to that municipal corporation any amount other 532
than the amount upon which the employee would be required to pay 533
tax were the amount related to the stock option not exempted 534
from taxation. 535

This division applies solely for the purpose of making an 536
adjustment to the amount of a taxpayer's net profit that was 537
apportioned to a municipal corporation under this section. 538

(G) When calculating the ratios described in division (A) 539
of this section for the purposes of that division or division 540
(B) of this section, the owner of a disregarded entity shall 541

include in the owner's ratios the property, payroll, and gross 542
receipts of such disregarded entity. 543

Sec. 718.821. (A) Terms used in this section have the same 544
meanings as in section 718.021 of the Revised Code. 545

(B) A taxpayer may elect to apply the provisions of this 546
section to the apportionment of its net profit from a business 547
or profession. For taxpayers that make this election, the 548
provisions of section 718.82 of the Revised Code apply to such 549
apportionment except as otherwise provided in this section. 550

A taxpayer shall make the election allowed under this 551
section by notifying the tax commissioner in writing on or with 552
the taxpayer's net profit return or, if applicable, a timely 553
filed amended net profit return or appeal of an assessment. The 554
election applies to the taxable year for which that return or 555
appeal is filed and for all subsequent taxable years, until the 556
taxpayer revokes the election. After the taxpayer makes the 557
initial election, the election applies to every municipal 558
corporation in which the taxpayer conducts business. 559

Nothing in this section prohibits a taxpayer from making a 560
new election under this section after properly revoking a prior 561
election. 562

(C) For the purpose of calculating the ratios described in 563
division (A) of section 718.82 of the Revised Code, all of the 564
following apply to a taxpayer that has made the election 565
described in division (B) of this section: 566

(1) For the purpose of division (A)(1) of section 718.82 567
of the Revised Code, the average original cost of any tangible 568
personal property used by a qualifying remote employee or owner 569
at that individual's qualifying remote work location shall be 570

sitused to that individual's qualifying reporting location. 571

(2) For the purpose of division (A) (2) of section 718.82 572
of the Revised Code, any wages, salaries, and other compensation 573
paid during the taxable period to a qualifying remote employee 574
or owner for services performed at that individual's qualifying 575
remote work location shall be sitused to that individual's 576
qualifying reporting location. 577

(3) For the purpose of division (A) (3) of section 718.82 578
of the Revised Code, and notwithstanding division (D) of that 579
section, any gross receipts of the business or profession from 580
services performed during the taxable period by a qualifying 581
remote employee or owner for services performed at that 582
individual's qualifying remote work location shall be sitused to 583
that individual's qualifying reporting location. 584

(D) Nothing in this section prevents a taxpayer from 585
requesting, or the tax commissioner from requiring, that the 586
taxpayer use, with respect to all or a portion of the income of 587
the taxpayer, an alternative apportionment method as described 588
in division (B) of section 718.82 of the Revised Code. However, 589
the commissioner shall not require an alternative apportionment 590
method in such a manner that it would cause a taxpayer to incur 591
tax liability in a municipal corporation solely because a 592
qualifying remote employee's or owner's qualifying remote work 593
location is located in that municipal corporation. 594

(E) Except as otherwise provided in this section, nothing 595
in this section is intended to affect the withholding of taxes 596
on qualifying wages pursuant to sections 718.011 and 718.03 of 597
the Revised Code. 598

Section 2. That existing sections 718.02, 718.021, and 599

718.82 of the Revised Code are hereby repealed. 600

Section 3. The amendment or enactment by this act of 601
sections 718.02, 718.021, 718.82, and 718.821 of the Revised 602
Code applies to taxable years ending on or after January 1, 603
2022. 604