

I_134_0159-2

134th General Assembly
Regular Session
2021-2022

Sub. S. B. No. 97

A BILL

To amend section 718.19 of the Revised Code and 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 and tax refund
requirements.

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

Section 1. That section 718.19 of the Revised Code be
amended to read as follows:

Sec. 718.19. (A) Upon receipt of a request for a refund,
the tax administrator of a municipal corporation, in accordance
with this section, shall refund to employers, agents of
employers, other payers, or taxpayers, with respect to any
income or withholding tax levied by the municipal corporation:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested
exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, requests for refund shall be filed with the tax administrator, on the form prescribed by the tax administrator in compliance with this chapter, within three years after the tax was due or paid, whichever is later. The tax administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund, except that, if the requestor claims a refund of amounts withheld by the requestor's employer, the tax administrator may not require a statement from the employer as a condition for processing the request.

(2) On filing of the refund request, the tax administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B) (3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a tax administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the tax administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under section 718.11 of the Revised Code.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of

the following situations exist: 47

(1) The request is delivered by the postal service, and 48
the earliest postal service postmark on the cover in which the 49
request is enclosed is not later than the last day for filing 50
the request. 51

(2) The request is delivered by the postal service, the 52
only postmark on the cover in which the request is enclosed was 53
affixed by a private postal meter, the date of that postmark is 54
not later than the last day for filing the request, and the 55
request is received within seven days of such last day. 56

(3) The request is delivered by the postal service, no 57
postmark date was affixed to the cover in which the request is 58
enclosed or the date of the postmark so affixed is not legible, 59
and the request is received within seven days of the last day 60
for making the request. 61

(D) As used in this section, "withholding tax" has the 62
same meaning as in section 718.27 of the Revised Code and 63
includes tax properly withheld but subject to refund to the 64
employee. 65

Section 2. That existing section 718.19 of the Revised 66
Code is hereby repealed. 67

Section 3. That Section 29 of H.B. 197 of the 133rd 68
General Assembly be amended to read as follows: 69

Sec. 29. (A) Notwithstanding section 718.011 of the 70
Revised Code, and for the purposes of Chapter 718. of the 71
Revised Code, ~~during the period of the emergency declared by~~ 72
~~Executive Order 2020-01D, issued on and after March 9, 2020, and~~ 73
~~for thirty days after the conclusion of that period~~ but before 74
January 1, 2022, any day on which an employee ~~performs~~ is, in 75

response to the COVID-19 pandemic, required by an employer to 76
perform personal services at a location, including the 77
employee's home, to which the employee is required to report for 78
employment duties because of the declaration or other location 79
that is not the employee's principal place of work shall be 80
deemed to be a day performing personal services at the 81
employee's principal place of work for the purpose of municipal 82
income tax withholding under section 718.011 of the Revised Code 83
and for the purpose of apportioning or situsing the employer's 84
net profit under section 718.02 or 718.82 of the Revised Code. 85

(B) Nothing in this section prohibits an employer from 86
assigning an employee to a new or different work location that 87
may result in a change to the employee's principal place of work 88
during the time period described in division (A) of this 89
section. 90

(C) Nothing in this section prohibits an employer from 91
withholding tax on an employee's qualifying wages in accordance 92
with section 718.03 of the Revised Code. 93

(D) This section does not apply for purposes of 94
determining the location at which a nonresident employee's work 95
was completed, services were performed or rendered, or 96
activities were conducted for the purpose of determining the 97
employee's municipal income tax liability. 98

Section 4. That existing Section 29 of H.B. 197 of the 99
133rd General Assembly is hereby repealed. 100

Section 5. It is the intent of the General Assembly to 101
clarify that Section 29 of H.B. 197 of the 133rd General 102
Assembly is intended to apply only to an employer's municipal 103
income tax withholding responsibilities and to the apportionment 104

or situsing of an employer's net profit, and not for purposes of 105
determining the location at which a nonresident employee's work 106
was completed, services were performed or rendered, or 107
activities were conducted for purposes of determining the 108
employee's municipal income tax liability. 109

Section 6. An employer shall not be assessed any tax, 110
penalty, or interest, including under section 718.27 of the 111
Revised Code, for the failure to withhold municipal income tax 112
from an employee's qualifying wages earned between March 9, 113
2020, and December 31, 2021, if the employer withheld and 114
remitted tax on such wages to the municipal corporation in which 115
the employee's principal place of work is located in accordance 116
with Section 29 of H.B. 197 of the 133rd General Assembly, as 117
enacted by that act and as amended by this act. 118

Section 7. The amendment or enactment by this act of 119
Section 29 of H.B. 197 of the 133rd General Assembly and 120
Sections 5 and 6 of this act is remedial in nature and apply to 121
any municipal income tax withholding obligation incurred, and 122
any qualifying wages earned, between March 9, 2020, and December 123
31, 2021. 124