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Am. H. B. No. 121

Representatives Robb Blasdel, Mathews

Cosponsors: Representatives Roemer, Seitz, Barhorst, Brennan, Claggett, Cross, Cutrona, Dell'Aquila, Dobos, Edwards, Forhan, Fowler Arthur, Gross, Hall, Hillyer, Jones, Kick, Klopfenstein, Lampton, Miller, A., Pavliga, Peterson, Plummer, Richardson, Schmidt, Swearingen, Thomas, C., Troy, Upchurch, Willis, Young, B., Young, T.

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 193
individual who is an employee of a taxpayer or who is a partner 194
or member holding an ownership interest in a taxpayer that is 195
treated as a partnership for federal income tax purposes, 196
provided that the individual meets both of the following 197
criteria: 198

(a) The taxpayer has assigned the individual to a 199
qualifying reporting location. 200

(b) The individual is permitted or required to perform 201
services for the taxpayer at a qualifying remote work location. 202

(2) "Qualifying remote work location" means a permanent or 203
temporary location at which an employee or owner chooses or is 204
required to perform services for the taxpayer, other than a 205
reporting location of the taxpayer or any other location owned 206
or controlled by a customer or client of the taxpayer. 207
"Qualifying remote work location" may include the residence of 208
an employee or owner and may be located outside of a municipal 209
corporation that imposes an income tax in accordance with this 210
chapter. An employee or owner may have more than one qualifying 211
remote work location during a taxable year. 212

(3) "Reporting location" means either of the following: 213

(a) A permanent or temporary place of doing business, such 214
as an office, warehouse, storefront, construction site, or 215
similar location, that is owned or controlled directly or 216
indirectly by the taxpayer; 217

(b) Any location in this state owned or controlled by a 218

customer or client of the taxpayer, provided that the taxpayer 219
is required to withhold taxes under section 718.03 of the 220
Revised Code on qualifying wages paid to an employee for the 221
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
with a timely filed appeal of an assessment. The election 249
applies to the taxable year for which that return or appeal is 250
filed and for all subsequent taxable years, until the taxpayer 251
revokes the 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. 264

After the taxpayer makes the initial election, the 265
election applies to every municipal corporation in which the 266
taxpayer conducts business. The taxpayer shall not be required 267
to file a net profit return with a municipal corporation solely 268
because a qualifying remote employee's or owner's qualifying 269
remote work location is located in such municipal corporation. 270

Nothing in this section prohibits a taxpayer from making a 271
new election under this section after properly revoking a prior 272
election. 273

(C) For the purpose of calculating the ratios described in 274
division (A) of section 718.02 of the Revised Code, all of the 275
following apply to a taxpayer that has made the election 276
described in division (B) of this section: 277

(1) For the purpose of division (A) (1) of section 718.02 278
of the Revised Code, the average original cost of any tangible 279
personal property used by a qualifying remote employee or owner 280
at that individual's qualifying remote work location shall be 281
sitused to that individual's qualifying reporting location. 282

(2) For the purpose of division (A) (2) of section 718.02 283
of the Revised Code, any wages, salaries, and other compensation 284
paid during the taxable period to a qualifying remote employee 285
or owner for services performed at that individual's qualifying 286
remote work location shall be sitused to that individual's 287
qualifying reporting location. 288

(3) For the purpose of division (A) (3) of section 718.02 289
of the Revised Code, and notwithstanding division (D) of that 290
section, any gross receipts of the business or profession from 291
services performed during the taxable period by a qualifying 292
remote employee or owner for services performed at that 293
individual's qualifying remote work location shall be sitused to 294
that individual's qualifying reporting location. 295

(D) Nothing in this section prevents a taxpayer from 296
requesting, or a tax administrator from requiring, that the 297
taxpayer use, with respect to all or a portion of the income of 298
the taxpayer, an alternative apportionment method as described 299
in division (B) of section 718.02 of the Revised Code. However, 300
a tax administrator shall not require an alternative 301
apportionment method in such a manner that it would require a 302
taxpayer to file a net profit return with a municipal 303
corporation solely because a qualifying remote employee's or 304
owner's qualifying remote work location is located in that 305
municipal corporation. 306

(E) Except as otherwise provided in this section, nothing 307

in this section is intended to affect the withholding of taxes 308
on qualifying wages pursuant to sections 718.011 and 718.03 of 309
the Revised Code. 310

Sec. ~~718.021~~ 718.17. (A) As used in this section: 311

(1) "Nonqualified deferred compensation plan" means a 312
compensation plan described in section 3121(v) (2) (C) of the 313
Internal Revenue Code. 314

(2) (a) Except as provided in division (A) (2) (b) of this 315
section, "qualifying loss" means the excess, if any, of the 316
total amount of compensation the payment of which is deferred 317
pursuant to a nonqualified deferred compensation plan over the 318
total amount of income the taxpayer has recognized for federal 319
income tax purposes for all taxable years on a cumulative basis 320
as compensation with respect to the taxpayer's receipt of money 321
and property attributable to distributions in connection with 322
the nonqualified deferred compensation plan. 323

(b) If, for one or more taxable years, the taxpayer has 324
not paid to one or more municipal corporations income tax 325
imposed on the entire amount of compensation the payment of 326
which is deferred pursuant to a nonqualified deferred 327
compensation plan, then the "qualifying loss" is the product of 328
the amount resulting from the calculation described in division 329
(A) (2) (a) of this section computed without regard to division 330
(A) (2) (b) of this section and a fraction the numerator of which 331
is the portion of such compensation on which the taxpayer has 332
paid income tax to one or more municipal corporations and the 333
denominator of which is the total amount of compensation the 334
payment of which is deferred pursuant to a nonqualified deferred 335
compensation plan. 336

(c) With respect to a nonqualified deferred compensation 337
plan, the taxpayer sustains a qualifying loss only in the 338
taxable year in which the taxpayer receives the final 339
distribution of money and property pursuant to that nonqualified 340
deferred compensation plan. 341

(3) "Qualifying tax rate" means the applicable tax rate 342
for the taxable year for which the taxpayer paid income tax to a 343
municipal corporation with respect to any portion of the total 344
amount of compensation the payment of which is deferred pursuant 345
to a nonqualified deferred compensation plan. If different tax 346
rates applied for different taxable years, then the "qualifying 347
tax rate" is a weighted average of those different tax rates. 348
The weighted average shall be based upon the tax paid to the 349
municipal corporation each year with respect to the nonqualified 350
deferred compensation plan. 351

(B) (1) Except as provided in division (D) of this section, 352
a refundable credit shall be allowed against the income tax 353
imposed by a municipal corporation for each qualifying loss 354
sustained by a taxpayer during the taxable year. The amount of 355
the credit shall be equal to the product of the qualifying loss 356
and the qualifying tax rate. 357

(2) A taxpayer shall claim the credit allowed under this 358
section from each municipal corporation to which the taxpayer 359
paid municipal income tax with respect to the nonqualified 360
deferred compensation plan in one or more taxable years. 361

(3) If a taxpayer has paid tax to more than one municipal 362
corporation with respect to the nonqualified deferred 363
compensation plan, the amount of the credit that a taxpayer may 364
claim from each municipal corporation shall be calculated on the 365
basis of each municipal corporation's proportionate share of the 366

total municipal corporation income tax paid by the taxpayer to 367
all municipal corporations with respect to the nonqualified 368
deferred compensation plan. 369

(4) In no case shall the amount of the credit allowed 370
under this section exceed the cumulative income tax that a 371
taxpayer has paid to a municipal corporation for all taxable 372
years with respect to the nonqualified deferred compensation 373
plan. 374

(C) (1) For purposes of this section, municipal corporation 375
income tax that has been withheld with respect to a nonqualified 376
deferred compensation plan shall be considered to have been paid 377
by the taxpayer with respect to the nonqualified deferred 378
compensation plan. 379

(2) Any municipal income tax that has been refunded or 380
otherwise credited for the benefit of the taxpayer with respect 381
to a nonqualified deferred compensation plan shall not be 382
considered to have been paid to the municipal corporation by the 383
taxpayer. 384

(D) The credit allowed under this section is allowed only 385
to the extent the taxpayer's qualifying loss is attributable to: 386

(1) The insolvency or bankruptcy of the employer who had 387
established the nonqualified deferred compensation plan; or 388

(2) The employee's failure or inability to satisfy all of 389
the employer's terms and conditions necessary to receive the 390
nonqualified deferred compensation. 391

Sec. 718.82. This section applies to any taxpayer that is 392
engaged in a business or profession in a municipal corporation 393
and that has made the election under section 718.80 of the 394
Revised Code. 395

(A) Except as otherwise provided in section 718.821 of the 396
Revised Code and division (B) of this section, net profit from a 397
business or profession conducted both within and without the 398
boundaries of a municipal corporation shall be considered as 399
having a taxable situs in the municipal corporation for purposes 400
of municipal income taxation in the same proportion as the 401
average ratio of the following: 402

(1) The average original cost of the real property and 403
tangible personal property owned or used by the taxpayer in the 404
business or profession in the municipal corporation during the 405
taxable period to the average original cost of all of the real 406
and tangible personal property owned or used by the taxpayer in 407
the business or profession during the same period, wherever 408
situated. 409

As used in the preceding paragraph, tangible personal or 410
real property shall include property rented or leased by the 411
taxpayer and the value of such property shall be determined by 412
multiplying the annual rental thereon by eight; 413

(2) Wages, salaries, and other compensation paid during 414
the taxable period to individuals employed in the business or 415
profession for services performed in the municipal corporation 416
to wages, salaries, and other compensation paid during the same 417
period to individuals employed in the business or profession, 418
wherever the individual's services are performed, excluding 419
compensation from which taxes are not required to be withheld 420
under section 718.011 of the Revised Code; 421

(3) Total gross receipts of the business or profession 422
from sales and rentals made and services performed during the 423
taxable period in the municipal corporation to total gross 424
receipts of the business or profession during the same period 425

from sales, rentals, and services, wherever made or performed. 426

(B) (1) If the apportionment factors described in division 427
(A) of this section do not fairly represent the extent of a 428
taxpayer's business activity in a municipal corporation, the 429
taxpayer may request, or the tax commissioner may require, that 430
the taxpayer use, with respect to all or any portion of the 431
income of the taxpayer, an alternative apportionment method 432
involving one or more of the following: 433

(a) Separate accounting; 434

(b) The exclusion of one or more of the factors; 435

(c) The inclusion of one or more additional factors that 436
would provide for a more fair apportionment of the income of the 437
taxpayer to the municipal corporation; 438

(d) A modification of one or more of the factors. 439

(2) A taxpayer request to use an alternative apportionment 440
method shall be in writing and shall accompany a tax return, 441
timely filed appeal of an assessment, or timely filed amended 442
tax return. The taxpayer may use the requested alternative 443
method unless the tax commissioner denies the request in an 444
assessment issued within the period prescribed by division (A) 445
of section 718.90 of the Revised Code. 446

(3) The tax commissioner may require a taxpayer to use an 447
alternative apportionment method as described in division (B) (1) 448
of this section only by issuing an assessment to the taxpayer 449
within the period prescribed by division (A) of section 718.90 450
of the Revised Code. 451

(C) As used in division (A) (2) of this section, "wages, 452
salaries, and other compensation" includes only wages, salaries, 453

or other compensation paid to an employee for services performed 454
at any of the following locations: 455

(1) A location that is owned, controlled, or used by, 456
rented to, or under the possession of one of the following: 457

(a) The employer; 458

(b) A vendor, customer, client, or patient of the 459
employer, or a related member of such a vendor, customer, 460
client, or patient; 461

(c) A vendor, customer, client, or patient of a person 462
described in division (C) (1) (b) of this section, or a related 463
member of such a vendor, customer, client, or patient. 464

(2) Any location at which a trial, appeal, hearing, 465
investigation, inquiry, review, court-martial, or similar 466
administrative, judicial, or legislative matter or proceeding is 467
being conducted, provided that the compensation is paid for 468
services performed for, or on behalf of, the employer or that 469
the employee's presence at the location directly or indirectly 470
benefits the employer; 471

(3) Any other location, if the tax commissioner determines 472
that the employer directed the employee to perform the services 473
at the other location in lieu of a location described in 474
division (C) (1) or (2) of this section solely in order to avoid 475
or reduce the employer's municipal income tax liability. If the 476
tax commissioner makes such a determination, the employer may 477
dispute the determination by establishing, by a preponderance of 478
the evidence, that the tax commissioner's determination was 479
unreasonable. 480

(D) For the purposes of division (A) (3) of this section, 481
and except as provided in section 718.821 of the Revised Code, 482

receipts from sales and rentals made and services performed 483
shall be sitused to a municipal corporation as follows: 484

(1) Gross receipts from the sale of tangible personal 485
property shall be sitused to the municipal corporation only if, 486
regardless of where title passes, the property meets either of 487
the following criteria: 488

(a) The property is shipped to or delivered within the 489
municipal corporation from a stock of goods located within the 490
municipal corporation. 491

(b) The property is delivered within the municipal 492
corporation from a location outside the municipal corporation, 493
provided the taxpayer is regularly engaged through its own 494
employees in the solicitation or promotion of sales within such 495
municipal corporation and the sales result from such 496
solicitation or promotion. 497

(2) Gross receipts from the sale of services shall be 498
sitused to the municipal corporation to the extent that such 499
services are performed in the municipal corporation. 500

(3) To the extent included in income, gross receipts from 501
the sale of real property located in the municipal corporation 502
shall be sitused to the municipal corporation. 503

(4) To the extent included in income, gross receipts from 504
rents and royalties from real property located in the municipal 505
corporation shall be sitused to the municipal corporation. 506

(5) Gross receipts from rents and royalties from tangible 507
personal property shall be sitused to the municipal corporation 508
based upon the extent to which the tangible personal property is 509
used in the municipal corporation. 510

(E) Commissions received by a real estate agent or broker 511
relating to the sale, purchase, or lease of real estate shall be 512
situated to the municipal corporation in which the real estate is 513
located. Net profit reported by the real estate agent or broker 514
shall be allocated to a municipal corporation based upon the 515
ratio of the commissions the agent or broker received from the 516
sale, purchase, or lease of real estate located in the municipal 517
corporation to the commissions received from the sale, purchase, 518
or lease of real estate everywhere in the taxable year. 519

(F) If, in computing a taxpayer's adjusted federal taxable 520
income, the taxpayer deducted any amount with respect to a stock 521
option granted to an employee, and if the employee is not 522
required to include in the employee's income any such amount or 523
a portion thereof because it is exempted from taxation under 524
divisions (C) (12) and (R) (1) (d) of section 718.01 of the Revised 525
Code by a municipal corporation to which the taxpayer has 526
apportioned a portion of its net profit, the taxpayer shall add 527
the amount that is exempt from taxation to the taxpayer's net 528
profit that was apportioned to that municipal corporation. In no 529
case shall a taxpayer be required to add to its net profit that 530
was apportioned to that municipal corporation any amount other 531
than the amount upon which the employee would be required to pay 532
tax were the amount related to the stock option not exempted 533
from taxation. 534

This division applies solely for the purpose of making an 535
adjustment to the amount of a taxpayer's net profit that was 536
apportioned to a municipal corporation under this section. 537

(G) When calculating the ratios described in division (A) 538
of this section for the purposes of that division or division 539
(B) of this section, the owner of a disregarded entity shall 540

include in the owner's ratios the property, payroll, and gross 541
receipts of such disregarded entity. 542

Sec. 718.821. (A) Terms used in this section have the same 543
meanings as in section 718.021 of the Revised Code. 544

(B) A taxpayer may elect to apply the provisions of this 545
section to the apportionment of its net profit from a business 546
or profession. For taxpayers that make this election, the 547
provisions of section 718.82 of the Revised Code apply to such 548
apportionment except as otherwise provided in this section. 549

A taxpayer shall make the election allowed under this 550
section by notifying the tax commissioner in writing on or with 551
the taxpayer's net profit return or, if applicable, a timely 552
filed amended net profit return or with a timely filed appeal of 553
an assessment. The election applies to the taxable year for 554
which that return or appeal is filed and for all subsequent 555
taxable years, until the taxpayer revokes the election. After 556
the taxpayer makes the initial election, the election applies to 557
every municipal corporation in which the taxpayer conducts 558
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