

ORDINANCE NO. 2023-114

AN ORDINANCE AMENDING SECTIONS 194.03, 194.062, 194.094 AND 194.10 AND ADDING SECTION 194.0621 OF CHAPTER 194 OF THE CODIFIED ORDINANCES OF THE CITY OF FINDLAY, OHIO.

WHEREAS, Council desires to amend said sections of the Income Tax Ordinance, No. 2015-101,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Findlay, State of Ohio, Two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That paragraph 11, subparagraph (O) of Section 194.03, which reads as follows:

- (O) Earnings and income of all individuals under sixteen years of age, whether residents or nonresidents.

Be and the same is hereby amended to read as follows:

- (O) Earnings and income of all individuals under eighteen years of age, whether residents or nonresidents.

SECTION 2: That paragraph A of Section 194.062, which reads as follows:

- (A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

Be and the same is hereby amended to read as follows:

- (A) Except as otherwise provided in Section 194.0621 and division (B) of 194.062, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

SECTION 3: That paragraph D of Section 194.062 which reads as follows:

- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

Be and the same is hereby amended to read as follows:

- (D) For the purposes of division (A)(3) of this section, and except as provided in Section 194.0621, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

SECTION 4: That the following be added to Income Tax Ordinance, No. 2015-101, which will be designated Section 194.0621:

- (A) As used in this section: (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: (a) The taxpayer has assigned the individual to a qualifying reporting location. (b) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location. (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.

"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. (3) "Reporting location" means either of the following: (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; (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 performance of personal services at that location. (4) "Qualifying reporting location" means one of the following: (a) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year; (b) If no reporting location exists in this state for an employee or owner under division (A)(4)(a) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year; (c) If no reporting location exists in this state for an employee or owner under division (A)(4)(a) or (b) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

- (B) A taxpayer may elect to apply the provisions of this section to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of section 718.02 of the Revised Code apply to such apportionment except as otherwise provided in this section. A taxpayer shall make the election allowed under this section in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election. The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this section, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location. After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation. Nothing in this section prohibits a taxpayer from making a new election under this section after properly revoking a prior election.
- (C) For the purpose of calculating the ratios described in division (A) of section 718.02 of the Revised Code, all of the following apply to a taxpayer that has made the election described in division (B) of this section: (1) For the purpose of division (A)(1) of section 718.02 of the Revised Code, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location. (2) For the purpose of division (A)(2) of section 718.02 of the Revised Code, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location. (3) For the purpose of division (A)(3) of section 718.02 of the Revised Code, and notwithstanding division (D) of that section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

- (D) Nothing in this section prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (B) of section 718.02 of the Revised Code. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.
- (E) Except as otherwise provided in this section, nothing in this section is intended to affect the withholding of taxes on qualifying wages pursuant to sections 718.011 and 718.03 of the Revised Code.

SECTION 5: That paragraph A of Section 194.094, which reads as follows:

- (A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

Be and the same is hereby amended to read as follows:

- (A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return for a taxpayer that is an individual shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates. The extended due date of the municipal income tax return for a taxpayer that is not an individual shall be the fifteenth day of the eleventh month after the last day of the taxable year to which the return relates.

SECTION 6: That paragraph C of Section 194.094, which reads as follows:

- (C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the Tax Administrator on or before the date the municipal income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

Be and the same is hereby amended to read as follows:

- (C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's income tax return. If the request is received by the Tax Administrator on or before the date the tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

SECTION 7: That the following be added to Income Tax Ordinance, No. 2015-101, which will be designated paragraph F and G of Section 194.094:

- (F) If a taxpayer receives an extension for the filing of a municipal income tax return under paragraph(A), (B), (C), (D) or (E) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

- (G) If a tax administrator violates paragraph (F) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to one hundred fifty dollars. Paragraph (F) of this section does not apply to an extension received under paragraphs (A), (B) or (C) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under paragraph (A) of this section or failed to file for an extension under paragraph (C) of this section.

SECTION 8: That paragraph C, subparagraph 4 of Section 194.10, which reads as follows:

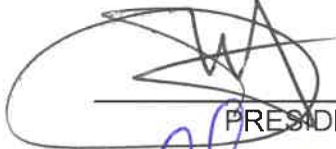
- (C) (4) With respect to returns, other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars (\$25) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars (\$150) in assessed penalty for each failure to timely file a return.

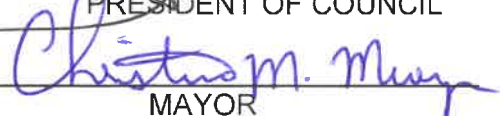
Be and the same is hereby amended to read as follows:

- (C) (4) With respect to returns other than estimated income tax returns, a municipal corporation may impose a penalty not exceeding twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon, except that a municipal corporation shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

SECTION 9: This Ordinance be and the same hereby approved and adopted by this Council, and shall be effective January 1, 2024 at 12:01AM, unless otherwise prescribed by HB33 of the 135th Ohio General Assembly.

WHEREFORE, this Ordinance shall take effect and be in force from and after its passage and approval by the Mayor.



 PRESIDENT OF COUNCIL


 MAYOR

PASSED November 21, 2023

ATTEST Denise DeVore
CLERK OF COUNCIL

APPROVED November 21, 2023