

**CITY OF MAPLE HEIGHTS COUNCIL MEETING  
Maple Heights Senior Center**

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**February 21, 2024**

**7:00 p.m.**

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**ADDENDUM FOR THE  
REGULAR MEETING OF COUNCIL  
OF FEBRUARY 21, 2024**

**LEGISLATION:**

**ORDINANCE NO. 2024-22**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE FOUR - TAXATION, CHAPTER 891 - EARNED INCOME TAX REGULATIONS, OF THE CODIFIED ORDINANCES OF THE CITY OF MAPLE HEIGHTS TO ADOPT UPDATES TO CONFORM TO HOUSE BILL 33, AND DECLARING AN EMERGENCY.**

**Reading 1 (Blackwell)**

**ORDINANCE NO.: 2024-22**

**INTRODUCED BY:** Mayor Annette M. Blackwell

**MOTION FOR ADOPTION BY:**

**CO-SPONSORED BY:**

**AN ORDINANCE AMENDING VARIOUS SECTIONS OF TITLE FOUR - TAXATION, CHAPTER 891 - EARNED INCOME TAX REGULATIONS, OF THE CODIFIED ORDINANCES OF THE CITY OF MAPLE HEIGHTS TO ADOPT UPDATES TO CONFORM TO HOUSE BILL 33, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the State to the municipalities; and

**WHEREAS**, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may limit a municipality’s power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

**WHEREAS**, the Ohio General Assembly enacted House Bill 5 in December 2014, providing that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in Chapter 718”; and

**WHEREAS**, the City of Maple Heights adopted these amendments and created Chapter 891-Earned Income Tax Regulations of the Codified Ordinances, pursuant to **ORD. NO. 2015-66**; and

**WHEREAS**, the Ohio General Assembly passed Amended Substitute House Bill 33, the State of Ohio’s biennial operating budget bill, on June 30, 2023 and signed into law by Governor DeWine on July 3, 2023, which contains certain changes to the Ohio Municipal Income Tax to be adopted by municipalities as amendments to their existing income tax ordinances, which changes are summarized as follows:

Annual Return Filing - requires filing an annual income tax return by every taxpayer whether or not a tax is due thereon.

Net Profit Allocation - for tax years ending on or after December 31, 2023, businesses with remote workers will be permitted to use an optional apportionment formula for their net profit filings. Instead of apportioning net profits to the municipalities where employees are performing remote work, businesses may elect to apportion net profits to employees’ reporting locations, which in most cases will be a location owned or controlled by the employer business.

Due Date Extension - allows the extended due date for an income tax return for a taxpayer that is not an individual to be the 15<sup>th</sup> day of the eleventh month after the

last day of the taxable year to which the return relates. Currently, the extension due date is 15<sup>th</sup> day of the tenth month. This gives an additional 30 days for extended filings.

Interest and Penalties - beginning with tax year 2023, the penalty municipalities may charge a taxpayer for a late filed return is reduced to a maximum of \$25, from the current maximum of \$150. The Bill also requires that a municipality waive the fee the first time a taxpayer files a late return.

Adoption of Sections 718.80 to 718.95 of the Ohio Revised Code - allows for a business to file their net profit return with the Ohio Department of Taxation.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

**Section 1.** Title Four, Chapter 891 of the Codified Ordinances be amended to read as set forth in the document entitled "Chapter 891-Earned Income Tax HB 33 Updates", with deletions struck through, and additions underlined, which is attached hereto as Exhibit A and incorporated as if fully rewritten herein.

**Section 2.** This Ordinance and the amendments to Chapter 891-Earned Income Tax Regulations shall take effect and be in force from and after January 1, 2024, for tax years beginning on or after January 1, 2023.

**Section 3.** It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting on the date indicated below, and that all deliberations of this Council and of any of its Committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

**Section 4.** This Ordinance constitutes an emergency measure necessary for the public peace, safety and general welfare of the City and for the further reason that HB 33 updates must be effective on January 1, 2024, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_, 2024

\_\_\_\_\_  
Ron Jackson, Council President

\_\_\_\_\_  
Annette M. Blackwell, Mayor

Approved as to legal form:

\_\_\_\_\_  
Frank Consolo, Director of Law

ATTEST: \_\_\_\_\_  
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: \_\_\_\_\_

\_\_\_\_\_  
Leonette Cicirella Johnson, Clerk of Council

**Chapter 891-Earned Income Tax HB 33 Updates**

**891.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.**

This section applies to any taxpayer engaged in a business or profession in the municipality unless the taxpayer is an individual who resides in the municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under R.C. Chapter 5745.

(a) Except as otherwise provided in divisions (b)(1) and (i) of this section 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:

\* \* \*

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

\* \* \*

(i)(1) As used in this division:

(A) "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:

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

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

(B) "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.

(C) "Reporting location" means either of the following:

(i) 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;

(ii) 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 891.05 of this Chapter, on qualifying wages paid to an employee for the performance of personal services at that location.

(D) "Qualifying reporting location" means one of the following:

(i) 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;

(ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) 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;

(iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) 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.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (b) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division 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 division, 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 division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (b)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (i)(2):

(A) For the purpose of division (b)(1)(a) of this section, 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.

(B) For the purpose of division (b)(1)(b) of this section, 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.

(C) For the purpose of division (b)(1)(c) of this section, and notwithstanding division (d) of this 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.

(4) Nothing in this division 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 this section. 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.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 891.05 of this Chapter.

#### 891.091 RETURN AND PAYMENT OF TAX.

(a) (1) An annual ~~City income tax return with respect to the income tax levied on municipal taxable income by the municipality~~ shall be completed and filed by every taxpayer for ~~any each~~ taxable year for which the taxpayer is subject to the tax, ~~regardless of whether or not income a tax is due thereon.~~

#### 891.094 EXTENSION OF TIME TO FILE.

(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 15th day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of City's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates.

\* \* \*

(f) If a taxpayer receives an extension for the filing of a municipal income tax return under 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.

If a Tax Administrator violates division (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 \$150.

Division (f) of this section does not apply to an extension received under division (a) 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 division (a) of this section or failed to file for an extension under division (c) of this section.

#### 891.10 PENALTY, INTEREST, FEES, AND CHARGES.

\* \* \*

(c) The municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipality any return required to be filed.

\* \* \*

(4)(i) For tax years ending on or before December 31, 2022, wWith respect to returns other than estimated income tax returns, the municipality shall impose a monthly penalty of twenty-five dollars (\$25.00) 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 (\$150.00) in assessed penalty for each failure to timely file a return.

(ii) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the City may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that the City shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

#### 891.96 ELECTION TO BE SUBJECT TO OHIO R.C. 718.80 TO 718.95.

(a) The City hereby adopts and incorporates herein by reference Ohio R.C. 718.80 to 718.95 for tax years beginning on or after January 1, 2018.

(b) A taxpayer, as defined in division (c) of this section, may elect to be subject to Ohio R.C. 718.80 to 718.95 in lieu of the provisions of this chapter.

(c) "Taxpayer" has the same meaning as in Ohio R.C. 718.01, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Ohio R.C. Chapter 5745. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.