

# CITY OF BLUE ASH CITY COUNCIL MEETING

Thursday, March 14, 2024; 7:00 PM

Blue Ash Municipal & Safety Center – Council Chambers  
4343 Cooper Road



## A G E N D A

1. MEETING CALLED TO ORDER
2. OPENING CEREMONIES
3. ROLL CALL – Clerk of Council Jamie K. Eifert
4. ACCEPTANCE OF AGENDA
5. APPROVAL OF MINUTES
  - a. Regular Meeting of February 8, 2024
  - b. Work Session of February 22, 2024
6. COMMUNICATIONS
  - a. Communications to Council – Clerk of Council Jamie K. Eifert
  - b. Reports From Outside Agencies
  - c. Mayor’s Report – February 2024
  - d. Financial Report – Motion to accept the report for February 2024
7. HEARINGS FROM CITIZENS
8. COMMITTEE REPORTS
  - a. Finance & Administration Committee, Lee Czerwonka, Chairperson
    1. Ordinance No. 2024-02, Amending the City of Blue Ash Income Tax Code
    2. Resolution No. 2024-14, Authorizing a multi-year collective bargaining agreement with the IAFF Local No. 3203 (Fire Fighters)
    3. Resolution No. 2024-15, Providing for amendments within the 2024 annual appropriation Resolution No. 2023-81
  - b. Parks & Recreation Committee, Katie Schneider, Chairperson
    1. Resolution No. 2024-16, Awarding a contract for architectural and engineering design services for the Recreation Center Pool Replacement Project
  - c. Public Works Committee, Brian Gath, Chairperson
    1. Resolution No. 2024-17, Awarding a contract for the 2024 Kenwood Road Bridge Reconstruction Project
9. MISCELLANEOUS BUSINESS
10. ADJOURNMENT

# CITY OF BLUE ASH

## Interoffice Memo – City Manager's Office

**TO:** City Council  
**FROM:** City Manager and Department Directors  
**SUBJECT:** Agenda Items for the March 14<sup>th</sup> Council Meeting  
**DATE:** March 12, 2024  
**COPIES:** Department Directors, Press, Clerk of Council, Solicitor

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This memo offers a brief description of the topics included on the March 14, 2024 Council agenda.

### **8.a.1. Ordinance No. 2024-02 – Amending the City of Blue Ash Income Tax Code**

Ordinance 2024-02 enacts changes required by the passage of Ohio House Bill 33 in July 2023. The changes to the income tax code are as follows:

- **Age Exemption:** Beginning in tax year 2024 and continuing thereafter, income of individuals under the age of eighteen is exempt from the Municipal Income Tax [BA Tax Code §174.03(11) and §174.091].
- **Business Net Profit Allocation for Remote Workers:** When filing a net profit return, a business apportions its net profits using a three-factor formula based on the business' payroll, property, and sales. For tax years ending on or after December 31, 2023, businesses with remote workers will be allowed to use an alternative apportionment formula for their net profit tax returns. Instead of apportioning net profits to the municipalities where employees are performing remote work, businesses may elect to apportion net profits to the employees' reporting locations, which is most likely owned or controlled by the employer of the remote workers. This provision relates to business net profit filings and does not impact the employer's responsibility to withhold municipal income tax, where applicable, based on employees' remote work locations. [BA Tax Code §174.062(I)].
- **Business Net Profit Extension of Time to File:** For tax years beginning on or after January 1, 2023, business net profit filers that have a filing extension will receive an additional one-month extension to their filing deadline. Currently, business net profit returns on extension have deadlines extended six months after their original filing deadline. This change allows the extension deadline to extend to seven months after their original filing deadline [BA Tax Code §174.094(A)].
- **Tax Administrator Inquiries to Taxpayers on Extension:** If a taxpayer is on extension, the tax administrator shall not make any inquiry or send any notice regarding the return until the return is received or until after the extended due date. Violation of this section could result in reimbursement to the taxpayer for costs associated with responding to the inquiry, not to exceed \$150 [BA Tax Code §174.094(F)].
- **Late Filing Penalty:** For tax years ending on or after January 1, 2023, the maximum penalty for a failure to timely file a return is \$25. The prior penalty for this instance was \$25 per month to a maximum of \$150. In addition, the City must abate the penalty the

first time the taxpayer fails to timely file a return [BA Tax Code §1710(C)(4)(b)].

Please direct any questions regarding this Ordinance to the Treasurer.

**8.a.2. Resolution No. 2024-14 – Authorizing a multi-year collective bargaining agreement with the IAFF Firefighters (Local 3203)**

Resolution No. 2024–14 authorizes the City Manager to enter into a multi-year collective bargaining agreement between the City and the Blue Ash Firefighters (International Association of Firefighters, Local 3203)

The City entered into negotiations with the Firefighters bargaining unit beginning in January of 2024. After a few productive negotiation conversations, all parties have agreed to the following changes to the previous bargaining agreement. The following is a summary of those changes:

- Article 16 – Work Period and Overtime – Reduced work week hours for FLSA purposes and added four unpaid Kelly Days (earned time off). This section also clarifies language on scheduling of Kelly Days. These contract adjustments reflect recent pay/hours worked trends in the industry and better align the terms of the City’s firefighter bargaining agreement with other area firefighter bargaining agreements for future recruitment and retention efforts. This represents a 5-6% hourly wage increase due to the reduced hours worked at the same annual base pay.
- Article 19 – Wages and Compensation – No annual wage increases in 2024 due to changes in Article 16 above, 3% increase in 2025 and 2026.
- Article 27 and 28 – Vacation and Sick – Language was modified to transfer the application of the prorated formula from each time an employee uses vacation or sick leave to when the employee separates employment and prior to any payout of balances. As a result, the monthly accrual amounts increased. However, the amount deducted for time taken has increased as well. This adjustment merely simplifies payroll processing and does not impact an employee’s vacation or sick benefit amounts.
- Article 32 – Severance Pay-- Addition of language to prorate sick and vacation balances at end of employment (in good standing) prior to any payout of balances.
- Contract period from February 17, 2024 – February 12, 2027.

Please direct any questions regarding this resolution to the Treasurer/Administrative Services Director or City Manager.

**8.a.3. Resolution No. 2024-15 – Providing for amendments within the 2024 annual appropriation Resolution No. 2023-81**

Resolution 2024-15 provides for the following 2024 budget amendments:

- The 2024 Budget included an estimated budget of \$672,781 for the Kenwood Road Bridge Project utilizing funds available in the Kenwood Road TIF Fund (508). Bids received for this project were higher than expected. Upon Council approval of the construction contract provided later in the agenda, this budget amendment will provide an additional \$177,219 needed to complete the bridge project.

Please direct any questions regarding this resolution to the Treasurer/Administrative Services Director or related Department Director.

**8.b.1. Resolution No. 2024-16 – Awarding a contract for architectural and engineering design services for the Recreation Center Pool Replacement Project**

City Staff are working towards the creation of a pool design for the pool renovation project. Recently, a public bid process was conducted for a Request for Design Proposal to attract a qualified architectural group. Four local architects applied for the opportunity. Through a proposal review and in-person interviews, City Staff has chosen Brandstetter Carrol Inc. as the architect to move forward with. They come with great experience and most recently served as the architect for the small pool renovation in 2017. Funding for the design of the project was approved within the 2024 Annual Budget.

Please direct questions regarding this Resolution to the Parks and Recreation Director.

**8.c.1. Resolution No. 2024-17 – Awarding a contract for the 2024 Kenwood Road Bridge Reconstruction Project**

The Ohio Public Works Commission (OPWC) awarded the City of Blue Ash a grant in the amount of \$302,599 for the 2024 Kenwood Road bridge reconstruction project. The City is responsible for the local share covering the remainder of the project funds. The project funds will be received in the form of a reimbursement, with the City encumbering the full project amount. The project is located approximately 937 feet south of Pfeiffer Road and supports a three-lane section of Kenwood Road over a local stream. The project involves replacing the concrete bridge deck, concrete bridge abutments and approach roadways. The City recommends approving Sunesis Construction for submitting the lowest and most qualified bid, and awarding a contract in the amount of \$788,433.28 plus approximately 8% contingency for a total amount of \$850,000 to reconstruct the failing bridge.

Please direct questions regarding this resolution to the Public Works Director

ORDINANCE NO. 2024-02

AMENDING CHAPTER 174 OF THE CODIFIED ORDINANCES, THE CITY OF BLUE ASH MUNICIPAL INCOME TAX CODE, INCORPORATING REQUIRED STATE LAWS CHANGES AS SHOWN ON THE ATTACHMENT; AND DECLARING AN EMERGENCY

WHEREAS, on November 12, 2015 Council approved Ordinance No. 2015-76 enacting Chapter 174 – City of Blue Ash Municipal Income Tax, of the Codified Ordinances, incorporating the State of Ohio mandated changes required by House Bill 5; and

WHEREAS, in addition, enactment of House Bill 49 references and relies upon Section 718.04(A) of the Ohio Revised Code, which purports to make municipal income taxing authority conditional upon a municipality’s adoption of code sections as dictated by the State; and

WHEREAS, Ohio House Bill 33, passed in July 2023, requires additional changes to the City of Blue Ash Municipal Income Tax Code; and

WHEREAS, the need exists to amend Chapter 174 – City of Blue Ash Municipal Income Tax Code to incorporate required Ohio House Bill 33 changes.

Be it ordained by the Council of the City of Blue Ash, Ohio, not less than five (5) members thereof concurring.

SECTION I.

That Chapter 174 - City of Blue Ash Municipal Income Tax Code of the codified ordinances shall hereby be amended to read as set forth in the attachment and incorporated by reference herein.

SECTION II.

That this Ordinance is declared to be emergency legislation, necessary for the immediate preservation of the public peace, health, and safety, which shall be effective immediately, the reason for the emergency being the requirement to incorporate Ohio House Bill 33 changes impacting municipal taxation into the City of Blue Ash Municipal Income Tax Code at the earliest possible time.

SECTION III.

That the Council hereby finds that this Ordinance was deliberated upon and passed in open meeting in compliance with Section 121.22 of the Ohio Revised Code.

PASSED this 14<sup>th</sup> day of March, 2024.

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Jill Cole, Mayor

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Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

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Bryan E. Pacheco, Solicitor

# **CHAPTER 174**

## **City of Blue Ash Municipal Income Tax**

Effective January 1, 2016

Applicable for tax years beginning on or after January 1, 2016

- 174.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE; EFFECTIVE DATE**
  - 174.011 AUTHORITY TO LEVY TAX
  - 174.012 PURPOSES OF TAX; RATE
  - 174.013 ALLOCATION OF FUNDS
  - 174.014 EFFECTIVE DATE
- 174.02 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX**
- 174.03 DEFINITIONS**
- 174.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS**
  - 174.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS
  - 174.042 DOMICILE
  - 174.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES
- 174.05 COLLECTION AT SOURCE**
  - 174.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES
  - 174.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT
  - 174.053 INTENTIONALLY LEFT BLANK
- 174.06 INCOME SUBJECT TO NET PROFIT TAX**
  - 174.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS
  - 174.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT
  - 174.063 CONSOLIDATED FEDERAL INCOME TAX RETURN
  - 174.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO
  - 174.065 TAX CREDITS TO FOSTER JOB RETENTION
- 174.07 DECLARATION OF ESTIMATED TAX**
- 174.08 CREDIT FOR TAX PAID**
  - 174.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY
  - 174.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS RELATED TO NONQUALIFIED DEFERRED COMPENSATION PLAN
  - 174.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE
  - 174.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

<b>174.09</b>	<b>ANNUAL RETURN</b>
174.091	RETURN AND PAYMENT OF TAX
174.092	RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE
174.093	USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED
174.094	EXTENSION OF TIME TO FILE
174.095	AMENDED RETURNS
174.096	REFUNDS
174.097	TAXPAYER ELECTION TO BE SUBJECT TO OHIO REVISED CODE SECTIONS 718.80 TO 718.95
<b>174.10</b>	<b>PENALTY, INTEREST, FEES AND CHARGES</b>
<b>174.11</b>	<b>AUDIT</b>
<b>174.12</b>	<b>ROUNDING</b>
<b>174.13</b>	<b>AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR</b>
174.131	ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR
174.132	COMPROMISE OF CLAIM AND PAYMENT OVER TIME
174.133	RIGHT TO EXAMINE
174.134	REQUIRING IDENTIFYING INFORMATION
<b>174.14</b>	<b>CONFIDENTIALITY</b>
<b>174.15</b>	<b>FRAUD</b>
<b>174.16</b>	<b>OPINION OF THE TAX ADMINISTRATOR</b>
<b>174.17</b>	<b>ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY</b>
<b>174.18</b>	<b>LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW</b>
<b>174.19</b>	<b>ACTIONS TO RECOVER; STATUTE OF LIMITATIONS</b>
<b>174.20</b>	<b>ADOPTION OF RULES</b>
<b>174.30</b>	<b>LANDLORDS</b>
<b>174.97</b>	<b>COLLECTION OF TAX AFTER TERMINATION OF CHAPTER</b>
<b>174.98</b>	<b>SAVINGS CLAUSE</b>
<b>174.99</b>	<b>VIOLATIONS; PENALTY</b>

## **174.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE; EFFECTIVE DATE**

### **174.011 AUTHORITY TO LEVY TAX**

- (A) The tax on income and the withholding tax established by this Chapter 174 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 174 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.
- (B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

*(Source: ORC 718.04)*

### **174.012 PURPOSES OF TAX; RATE**

An annual municipal income tax shall be, and is hereby, levied at the rate of one and one quarter percent (1.25%) per annum to provide funding for all municipal purposes including, but not limited to, general municipal operations, maintenance, equipment, services, facilities, and capital improvements.

*(Source: ORC 718.04)*

### **174.013 ALLOCATION OF FUNDS**

The funds collected under the provisions of this chapter shall be allocated to the General Fund of the Municipality.

### **174.014 EFFECTIVE DATE**

- (A) Ordinance 2015-76, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 174, apply to taxable years beginning in 2016 and succeeding taxable years. Per section 174.03(23)(C) of this chapter, revised net operating loss rules are effective with losses incurred for taxable years beginning on or after January 1, 2017.
- (B) Ordinance 2015-76 does not repeal the existing sections of Chapter 171 for any taxable year prior to 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under the previous Municipal Codes Chapter 171 and ORC 718 as enacted before January 1, 2016.
- (C) Ordinance 2018-2 amends Chapter 174 and incorporates additional changes to ORC 718. Changes are effective for tax years beginning on or after January 1, 2018 and are noted in the appropriate sections in this Chapter 174.
- (D) Provisions 174.03(28)(B) and 174.03(28)(C)- Definition of "Pension" and "Retirement benefit plan" are effective for tax years beginning on or after January 1, 2020.



(Source: ORC 718.04)

## **174.02 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX**

- (A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub H.B. 5, passed by the 130<sup>th</sup> General Assembly in December 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.
- (B) As mandated by H.B. 5, municipal income tax Ordinance 2015-76, effective January 1, 2016, enacted Chapter 174 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.
- (C) As mandated by H.B. 49 passed by the 132nd General Assembly in 2017, municipal income tax Ordinance 2018-2, effective January 1, 2018, amends Chapter 174 in accordance with the provisions of ORC 718.80 to 718.95. Businesses may elect to be subject to ORC 718.80 to 718.95 which will designate the State of Ohio Tax Commissioner as the administrator of the municipal net profit tax(es).
- (D) As mandated by H.B. 166 passed by the 133rd General Assembly in 2019, municipal income tax Ordinance 2020-02, effective January 1, 2020, amends Chapter 174 in accordance with provisions of ORC 718 to change the definition of pension to disallow the municipal taxation of nonqualified pension plans.
- (E) As mandated by H.B. 33 passed by the 135th General Assembly in 2023, municipal income tax ordinance 2022-02, effective January 1, 2024, amends Chapter 174 in accordance with provisions of ORC 718 to exempt the income of individuals under eighteen years of age, to permit businesses with remote workers to use a modified apportionment formula for their net profit returns, to add an extra month to business net profit extensions, to reduce the maximum late filing penalty, and to bar the Tax Administrator from making an inquiry into a return that is on extension.
- ~~(E)~~(F) This chapter may be amended by the Municipality to the extent permitted by the Ohio Revised Code and the Ohio Constitution.

## **174.03 DEFINITIONS**

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

(H) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 174.063 of this Chapter.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group

of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 174.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(E) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2) (A) **"ASSESSMENT"** means any of the following:

(i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

(ii) A full or partial denial of a refund request issued under Section 174.096 (B)(2) of this Chapter;

(iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 174.062(B)(2) of this Chapter; or

(iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 174.062(B)(3) of this Chapter.

(v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 174.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 174.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

- (4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review."
- (5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.
- (8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.
- (9) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (11) **"EXEMPT INCOME"** means all of the following:
- (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
  - (B) Intangible income as defined in division (15) of this section.
  - (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
  - (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
  - (E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
  - (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
  - (G) Alimony and child support received;

(H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.

(J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(L) Employee compensation that is not qualifying wages as defined in division (34) of this section;

(M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(O) For tax years 2024 and after, the income of individuals under eighteen years of age. INTENTIONALLY LEFT BLANK

(P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 174.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 174.052 of this Chapter.

(iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (B)(1) of Section 174.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in

division (E) of Section 174.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 174.052 of this Chapter.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(S) Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(T) Income the taxation of which is prohibited by the Constitution or laws of the United States.

(12) "**FORM 2106**" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) "**GENERIC FORM**" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) "**INCOME**" means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, lottery and other winnings (as described in division (14)(D) of this section), and other compensation (as described in division (14)(F) of this section) from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(E) of this section.

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section. Loss of any type cannot be used to offset qualifying wages (including W-2 income).

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N).

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, lottery and other winnings as described in division (D) of this section, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 174.081 of this Chapter.

(E) INTENTIONALLY LEFT BLANK

(F) For both resident and non-resident individuals, "OTHER COMPENSATION" shall mean:

(i) Tips, bonuses, gifts or prizes of any type connected with employment or in lieu of pay, and including compensation received by domestic servants, casual employees and other types of employees. These payments are normally reported on a Form 1099 MISC.

(ii) If the income appears as part of Medicare wages on a W-2 form and is not shown to be an exception in accordance with Section 174.03(11), it shall be considered other compensation and is therefore taxable to the individual. This includes, but is not limited to:

(a) Payments made by an employer to an employee during periods of absence from work are taxable when paid and at the tax rate in effect at the time of payment, regardless of the fact that such payments may be labeled as sick leave or sick pay, sick pay paid by the employer to the employee, severance pay, supplemental unemployment benefits described in Section 3402(o)(2) of the Internal Revenue Code, vacation pay, terminal pay, supplemental unemployment pay, settlements, any pay as part of an employee buyout, wage and salary continuation plans, payments made for the release of liability related to termination of employment.

(b) Tips, bonuses, fees, gifts in lieu of pay, gratuities.

(c) Strike pay; grievance pay.

(d) Employer paid premiums for group term life insurance to the extent taxable for federal income tax purposes.

(e) Car allowance, personal use of employer-provided vehicle.

(f) Incentive payments, no matter how described, including, but not limited to, payments to induce early retirement.

(g) Contributions by an employee or on behalf of an employee, from gross wages, into an employee or third party trust or pension plan as permitted by any provision of the Internal Revenue Code that may be excludable from gross wages for federal income tax purposes such as 401(k), 403(b) and 457 plans.

(h) Nonqualified Deferred Compensation Plans or programs described in section 3121(v)(2)(C) of the Internal Revenue Code.



(i) Insurance Agent Termination Payments and Extended Termination Payments. These payments are normally reported on a Form 1099 MISC.

(iii) Trust payments not made pursuant to employee's retirement.

(iv) Where compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding.

a) Board, lodging or similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

b) Restricted stock awards that vest over a period of time are taxable at their fair market value at the time they become vested and included in Medicare wages, as shown on the employee's IRS Form W-2.

(v) Fellowships, scholarships, stipends and grants, to the extent that they are taxable for federal income tax purposes.

(vi) For an individual, the ordinary gain from the sale of rental real estate property. Any related ordinary loss from the sale of rental real estate property shall be allowed.

(15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the **Ohio** Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 174.18 of this Chapter.

(19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

(i) For a person other than an individual, income apportioned or situated to the Municipality under Section 174.062 of this Chapter, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(ii) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 174.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** as used in this chapter means the City of Blue Ash.

(22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (23)(C) of this section.

(B) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (23)(C) of this section.

(C) The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (23)(C) of this section to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than

fifty per cent of the amount of the deduction otherwise allowed by division (23)(C)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (23)(C)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to division (23)(C) of this section.

(v) Nothing in division (23)(C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (23)(C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (23)(C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (23)(C)(iii)(a) of this section shall apply to the amount carried forward.

(vi) No portion of a net operating loss shall be carried back against net profits of any prior year.

(D) For the purposes of this chapter, and notwithstanding division (23)(B) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(E) (i) For purposes of this chapter, “publicly traded partnership” means any partnership, an interest in which is regularly traded on an established securities market. A “publicly traded partnership” may have any number of partners.

(ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(E) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (E)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division

(E)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (E) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) (A) **"PENSION"** for tax years beginning January 1, 2016 through December 31, 2019 means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(B) **"PENSION"** for tax years beginning on or after January 1, 2020 means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.

(C) **"RETIREMENT BENEFIT PLAN"** for tax years beginning on or after January 1, 2020 means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. "Retirement benefit plan" does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.

(32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax. The City of Blue Ash is not a qualified municipal corporation.

(34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(iii) INTENTIONALLY LEFT BLANK

(iv) INTENTIONALLY LEFT BLANK

(v) Any amount included in wages that is exempt income.

(B) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) **"RELATED ENTITY"** means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 174.042 of this Chapter.

(38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter. The City of Blue Ash Tax Commissioner is the Tax Administrator for the Municipality. "Tax Administrator" does not include the State of Ohio Tax Commissioner. Tax Administrator may also include the following:

(A) A municipal corporation acting as the agent of another municipal corporation;

(B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

(C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

(45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.



(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

(50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.

*(Source: Most definitions can be found in ORC 718.01)*

## **174.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS**

### **174.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS**

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 174.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 174.03 (14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 174.03(34).

(ii) "Net profit" is included in "income", and is defined in Section 174.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (23)(C) of Section 174.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 174.062(E).

(iii) Section 174.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Section 174.03(27).

(b) "Exempt Income" is defined in Section 174.03(11) of this Chapter.

(c) Allowable employee business expense deduction is described in (20)(B) of Section 174.03 of this Chapter, and is subject to the limitations provided in that section.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 174.03 (32) of this Chapter

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

- (1) “Income” reduced by “Exempt Income” to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 174.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 174.03 of this Chapter, further reduced by any “Pre-2017 Net Operating Loss Carryforward” equals “Municipal Taxable Income”.
  - (a) “Income” is defined in Section 174.03(14) of this Chapter.
    - (i) “Qualifying Wages” is defined in Section 174.03(34).
    - (ii) “Net profit” is included in “income”, and is defined in Section 174.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (23)(C) of Section 174.03. “Net profit” for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
    - (iii) “Pass Through Entity” is defined in Section 174.03(27).
  - (b) “Exempt Income” is defined in Section 174.03(11) of this Chapter.
  - (c) “Apportioned or sitused to the Municipality as provided in Section 174.062 of this Chapter” includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 174.062(E).
  - (d) “Allowable employee business expense deduction” as described in (20)(B) of Section 174.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
  - (e) “Pre-2017 Net Operating Loss Carryforward” is defined in Section 174.03(32) of this Chapter.

#### **174.042 DOMICILE**

(A) As used in this section:

- (1) “Domicile” means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
- (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
- (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

- (1) The individual's domicile in other taxable years;
- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (5) The location and value of abodes owned or leased by the individual;
- (6) Declarations, written or oral, made by the individual regarding the individual's residency;
- (7) The primary location at which the individual is employed;
- (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
- (9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.

*(Source: ORC 718.012)*

**174.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES**

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

*(Source: ORC 718.50)*

## **174.05 COLLECTION AT SOURCE**

### **174.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES**

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned or deemed to be received from said employer by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 174.052 of this Chapter or division (E) or (G) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) or of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
- (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
- (C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under section 174.091 of this Chapter.
- (D) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to

such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(E) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(F) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(G) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(H) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.

*(Source: ORC 718.03)*

#### **174.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT**

(A) The following terms as used in this section:

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
  - (a) The employee's principal place of work is located in the Municipality.

(b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

(i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;

(ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 174.051 of this Chapter.

(d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

(2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(a) Traveling to the location at which the employee will first perform services for the employer for the day;

(b) Traveling from a location at which the employee was performing services for the employer to any other location;

(c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the

employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 174.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 174.051 of this Chapter.

(G) INTENTIONALLY LEFT BLANK

*(Source: ORC 718.011)*

**174.053 INTENTIONALLY LEFT BLANK**

## **174.06 INCOME SUBJECT TO NET PROFIT TAX**

**174.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS**

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".



- (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
  - (i) "Net Profit" for a person other than an individual is defined in Section 174.03(23).
  - (ii) "Adjusted Federal Taxable Income" is defined in Section 174.03(1) of this Chapter.
- (2) "Exempt Income" is defined in Section 174.03(11) of this Chapter.
- (3) "Apportionment" means the apportionment as determined by Section 174.062 of this Chapter.
- (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 174.03 (32) of this Chapter.

(Source: ORC 718.01)

**174.062 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 Chapter 5745 of the Ohio Revised Code.

(A) Except as otherwise noted in divisions (B)(2) 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:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 174.052 of this Chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B) (1) If the apportionment factors described in division (A) of this section do not fairly

represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;
- (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
- (d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 174.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 174.19 of this Chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

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

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

- (a) The employer;
- (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
- (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

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

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the

evidence, that the Tax Administrator's determination was unreasonable.

(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:

(1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria in (a), (b), or (c). For taxable years beginning on or after January 1, 2018, gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets either of the following criteria (a) or (b).

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

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

(c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. Criteria (c) applies to taxable years beginning prior to January 1, 2018 and is not applicable for taxable years beginning on or after January 1, 2018.

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

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

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

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

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease

of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 174.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 174.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

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

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

(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 174.05 of this Ordinance, 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 (I)(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 (I)(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 divisions (A) through (H) 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 (A) 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 (A)(1) 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 (A)(2) 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 (A)(3) 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 174.05 of this Ordinance.

*(Source: ORC 718.02 and 718.021)*

## **174.063 CONSOLIDATED FEDERAL INCOME TAX RETURN**

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01

of the Revised Code.

- (B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.
- (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
- (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
- (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (4) When a taxpayer makes the election allowed under section 718.80 of the Revised Code, a valid election made by the taxpayer under division (B)(1) or (2) of this section is binding upon the State of Ohio Tax Commissioner for the remainder of the five-year period.
- (5) When an election made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the Municipal Tax Administrator for the remainder of the five-year period.
- (C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.
- (D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.
- (E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 174.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal



taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 174.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 174.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 174.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 174.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 174.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.



(G) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

*(Source: ORC 718.06)*

#### **174.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO**

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

*(Source: ORC 718.15)*

#### **174.065 TAX CREDITS TO FOSTER JOB RETENTION**

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

*(Source: ORC 718.151)*

### **174.07 DECLARATION OF ESTIMATED TAX**

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

(a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 174.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;

(d) For an individual, on or before the fifteenth day of the first month of the following taxable year, ninety per cent of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax

Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 174.091 of this Chapter.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 174.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 174.091 of

this Chapter for that year.

(3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

- (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

*(Source: 718.08)*

## **174.08 CREDIT FOR TAX PAID**

### **174.081 CREDIT FOR MUNICIPAL INCOME TAX PAID TO ANOTHER MUNICIPALITY**

- (A) An individual taxpayer regardless of filing status who resides in the Municipality and who earns or receives salaries, wages, commissions, or other compensation or net profits from sales made, work done or services performed or rendered outside of the Municipality, shall be allowed a credit in the amount of municipal income tax paid on the same income (ie. on each dollar taxed), by or on behalf of that individual if it is demonstrated that a municipal income tax has been so paid. Such credit shall be allowed only to the extent of the tax imposed by this chapter.
- (B) A resident individual with income from an ownership interest in one or more pass-through entities, activities of a sole proprietor, or rental activities, after the deduction of distributable losses from other pass-through entities or business activities not utilized as a net operating loss carry-forward in any municipal taxing jurisdiction after January 1, 2018, shall be allowed a non-refundable credit for the amount so paid by the resident or on the resident's behalf in such other municipal corporation only to the extent of the tax assessed by this chapter.
- (C) The credit for tax paid by a resident individual for salaries or wages earned in a non-resident municipal corporation is limited to the tax that is paid on the same income (ie. on each dollar taxed) after all allowable 2106 expenses have been deducted and shall not exceed the tax established by this chapter.
- (D) Notwithstanding any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Administrator may provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Administrator a list showing the tax withheld from such taxpayer's wages, salaries or commissions for other municipalities.
- (E) No credit shall be given for county or school district taxes paid; only other municipal income taxes.

### **174.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS RELATED TO NONQUALIFIED DEFERRED COMPENSATION PLAN**

- (A) As used in this section:

(1) “Nonqualified deferred compensation plan” means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

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

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the “qualifying loss” is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

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

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

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

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

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation’s proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

- (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
- (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

*(Source: ORC 718.021)*

#### **174.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE**

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 174.081 of this Chapter.

*(Source: ORC 718.16)*

#### **174.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND**

- (A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 174.096 of this Chapter.
- (B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 174.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.
- (C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 174.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 174.081 of this Chapter regarding any limitation on credit shall prevail.

(Source: ORC 718.121)

## **174.09 ANNUAL RETURN**

### **174.091 RETURN AND PAYMENT OF TAX**

(A) (1) An annual 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 taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 174.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, eighteen years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability. ~~Resident individual taxpayers under eighteen years of age are still subject to the municipal income tax, but need not file a municipal income tax return unless a municipal tax liability exists.~~

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.



(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Section 174.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 174.092 of this Chapter, the provision in Section 174.092 of this Chapter prevails.

(H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.

(I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 174.051 of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 174.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and

authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in section 174.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(3) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless

the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

(Source: ORC 718.05)

#### **174.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE**

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the

United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

*(Source: ORC 718.052)*

#### **174.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED**

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(F) This division is not subject to Ohio Revised Code Sections 718.80 to 718.95. See division 174.097 for election to be subject to Revised Code Sections 718.80 to 718.95.

*(Source: ORC 718.051)*

#### **174.094 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 fifteenth 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 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.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months 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 same as that of the extended federal income tax return.

(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.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer 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 same as the extended due date of the state income tax return.

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

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 one hundred fifty dollars.

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.

(Source: ORC 718.05)

## **174.095 AMENDED RETURNS**

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by

payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 174.19 of this Chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 174.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

*(Source: ORC 718.12, 718.41)*

#### **174.096 REFUNDS**

(A) Upon receipt of a request for a refund or credit, the Tax Administrator of the Municipality, in accordance with this section, shall refund or credit to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund or credit requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(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 174.18 of this Chapter.

(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:

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

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

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

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 174.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 174.10 of this Chapter.

*(Source: ORC 718.19)*

**174.097 TAXPAYER ELECTION TO BE SUBJECT TO OHIO REVISED CODE SECTIONS 718.80 TO 718.95**

(A) (1) An eligible taxpayer may elect to be subject to sections 718.80 to 718.95 by making the initial election with the State of Ohio Tax Commissioner. A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the State of Ohio Tax Commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year, on a form prescribed by the State of Ohio Tax Commissioner.

(2) (a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the State of Ohio Tax Commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year of its termination of the election.

(b) A notification of termination shall be made, on a form prescribed by the State of Ohio Tax Commissioner, on or before the first day of the third month of any taxable year.

(c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 718.80 to 718.95 of the Revised Code, and is instead subject to the provisions set forth in the remainder of Revised Code chapter 718 in addition to the remainder of this Ordinance.

(B) Upon the taxpayer's election, both of the following shall apply:

(1) The State of Ohio Tax Commissioner shall serve as the sole administrator of each municipal income tax for which the taxpayer is liable for the term of the election;

(2) The State of Ohio Tax Commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code and any applicable provision of Chapter 5703 of the Revised Code.

(C) Municipal code section 174.097 is effective for taxable years beginning on or after January 1, 2018.

*(Source: ORC 718.80)*

## **174.10 PENALTY, INTEREST, FEES, AND CHARGES**

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.



(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality.

(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.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty not exceeding fifty percent of the amount not timely paid shall be imposed.

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

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, the Municipality shall impose a penalty

not exceeding twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon, except that the Municipality shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

*(Source: ORC 718.27)*

## **174.11 AUDIT**

(A) At or before the commencement of an audit, as defined in Section 174.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

*(Source: ORC 718.36)*

## **174.12 ROUNDING**

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

*(Source: ORC 718.25)*

## **174.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR**

### **174.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR**

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

(A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(B) Appoint agents and prescribe their powers and duties;

(C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment,

approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 174.062 of this Chapter;

(G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(H) Destroy any or all returns or other tax documents in the manner authorized by law;

(I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 174.051 of this Chapter.

*(Source: ORC 718.24)*

#### **174.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME**

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

(E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator shall have sole discretion to determine whether or not

penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

*(Source: 718.28)*

#### **174.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE**

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

*(Source: ORC 718.23)*

#### **174.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION**

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the

Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 174.10 of this Chapter, in addition to any applicable penalty described in section 174.99 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 174.10 of this Chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 174.99 of this Chapter for a violation of 174.15 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

*(Source: ORC 718.26)*

## **174.14 CONFIDENTIALITY**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

*(Source: ORC 718.13)*

## **174.15 FRAUD**

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.

(Source: ORC 718.35)

## **174.16 OPINION OF THE TAX ADMINISTRATOR**

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

- (6) The effective date of the expiration of the opinion, if specified in the opinion.
- (D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
- (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 174.15 of this Chapter.
- (E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
- (2) It is the duty of the taxpayer to be aware of such changes.
- (F) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
- (J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under division (F) may not be appealed.

*(Source: ORC 718.38)*

## **174.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY**

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.
- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
- (3) Once service of the assessment has been made by the Tax Administrator or other



municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.

- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

*(Source: ORC 718.18)*

## **174.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW**

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the City Manager of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the City Manager of the Municipality shall serve at the discretion of the City Manager.

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a

taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

(Source: ORC 718.11)

## **174.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS**

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
- (i) Three years after the tax was due or the return was filed, whichever is later; or
  - (ii) One year after the conclusion of the qualifying deferral period, if any.
- (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:
- (a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 174.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
  - (b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.
- (B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 174.096 of this Chapter.
- (D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of

payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 174.18 of this Chapter, of the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio Board of Tax Appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment with interest on that amount as provided Section 174.096(D).

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

*(Source: ORC 718.12)*

## **174.20 ADOPTION OF RULES**

(A) Pursuant to Section 718.30 of the Revised Code, the Municipality, pursuant to this Chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this section shall be published and posted on the internet.

*(Source: ORC 718.30)*

## **174.30 LANDLORDS**

(A) Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the name, address and, if available, telephone number, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

(B) Within thirty (30) days after a tenant vacates an apartment, room, or other rental property located within the Municipality, the owner of such vacated rental property shall file with the Tax Administrator a report showing the date of vacation from the rental property and, if available, a forwarding address.

## **174.97 COLLECTION AFTER TERMINATION OF CHAPTER**

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and

proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 174.19.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 174.091 as though the same were continuing.

## **174.98 SAVINGS CLAUSE**

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

## **174.99 VIOLATIONS; PENALTY**

(A) Except as provided in division (B) of this section, whoever violates Section 174.15 of this Chapter, division (A) of Section 174.14 of this Chapter, or Section 174.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 174.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and subject to fines; on a second offense and each subsequent offense within two years after the first offense, the person may be guilty of a misdemeanor of the 3rd degree and subject to fines or imprisoned not more than sixty (60) days, or both, for each offense. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter;  
or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any

combination thereof, imposed by this Chapter; or

(4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 174.051; or

(5) Neglect or refuse to withhold or remit municipal income tax from employees; or

(6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

(7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

(9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 174.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

*(Source: ORC 718.99)*

RESOLUTION NO. 2024-14

AUTHORIZING THE CITY MANAGER TO ENTER INTO A MULTI-YEAR COLLECTIVE BARGAINING AGREEMENT WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTER (IAFF), LOCAL 3203. (FIREFIGHTERS BARGAINING UNIT)

Be it resolved by the Council of the City of Blue Ash, Ohio,

SECTION I.

The City Manager is hereby authorized to enter into a multi-year collective bargaining agreement with the International Association of Firefighters (IAFF), Local 3203 (Firefighters Bargaining Unit) in accordance with Resolution 2017-63 – Administrative Rules and Regulations, as set forth in the attachment hereto.

SECTION II.

The Treasurer is hereby authorized to expend the necessary funds therefor.

SECTION III.

This resolution shall be in force and take effect immediately upon its adoption.

PASSED this 14<sup>th</sup> day of March, 2024.

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Jill Cole, Mayor

---

Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

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Bryan Pacheco, Solicitor

Resolution No. 2024-14

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**THE CITY OF BLUE ASH**

**AND**

**INTERNATIONAL ASSOCIATION OF FIREFIGHTERS  
LOCAL NO. 3203**



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ARTICLE 1  
PREAMBLE

Section 1.1 This Agreement is made and entered into this 14<sup>th</sup> day of March, 2024, by and between the City of Blue Ash, Ohio, hereinafter referred to as the “Employer” or the “City”, and Local #3203, International Association of Fire Fighters, hereinafter referred to as the “IAFF”, solely as it relates to the Blue Ash Fire Department firefighters within the bargaining unit. The purpose of this Agreement is:

To comply with the requirements of Ohio Revised Code Chapter 4117; and to set forth the full and complete understandings and agreements between the parties governing the wages, hours, terms and other conditions of employment for those firefighters included in the bargaining unit as defined herein.

ARTICLE 2  
RECOGNITION

Section 2.1 The Employer hereby recognizes the IAFF, during the entire term of this Agreement, as the collective bargaining agent with respect to wages, hours, terms and other conditions of employment for the Firefighter I (EMT) and Firefighter III (Paramedic) classifications within the Fire Department of the City of Blue Ash as certified by the State Employment Relations Board in Case Number 89-REP-02-0044, dated September 28, 1989.

Section 2.2 All management level employees including Fire Chief, firefighters with rank of Lieutenant and above, confidential employees, non-firefighter professional employees, part-time employees, seasonal and casual employees, and civilian employees of the Employer are specifically excluded from the bargaining unit.

ARTICLE 3  
IAFF REPRESENTATION

Section 3.1 Non-employee representative(s) of the IAFF shall be admitted to the Employer’s facilities for the purpose of processing grievances or attending meetings as permitted herein with prior approval by the City Manager or designee. Upon arrival, the IAFF representative shall identify himself to the City Manager or designee or highest ranking officer on duty.

Section 3.2 The Employer shall recognize three (3) firefighters, designated by the firefighters of the certified bargaining unit and approved by the IAFF, to act as IAFF representatives for the purposes of representation as outlined under this Agreement.

Section 3.3 No firefighter shall be recognized by the Employer as an IAFF representative until the IAFF has presented the Employer with written certification of that person’s selection as an IAFF representative by the firefighters of the certified bargaining unit.

Section 3.4 Rules governing the activity of IAFF representatives are as follows:

(a) The IAFF agrees that no official of the IAFF, employee or non-employee, shall interfere, interrupt, or disrupt the normal work duties of other employees. The IAFF further agrees not to conduct IAFF business during working hours except to the extent specifically authorized herein.

(b) The representatives shall be permitted reasonable time to investigate, present, and process

formal grievances on the Employer's property without the loss of pay during their regular working hours, provided that in each and every instance where such time is required, only one representative is assigned to a grievance, and the length of time and the time period within the working hours shall be agreed upon previously by the IAFF representative and the Fire Chief or designee. The representatives shall make all reasonable efforts, however, to process all grievances during non-working hours.

- (1) The IAFF may conduct one (up-to-two hour) meeting per calendar month, concerning bona fide IAFF business, at the North Fire Station for all on-duty, bargaining unit members who are assigned to and working at that North Fire Station. The IAFF shall submit all such meeting requests in writing (including the requested date and time) to the Fire Chief or designee for review and approval purposes prior to conducting such meetings. Any such approval from the Fire Chief or designee shall be in writing. If approved, such meeting(s) may be conducted during the work day at or after 6:00 p.m. The meeting(s), even if scheduled and/or in progress, shall not interfere with any and all assigned duties or emergency details.

(c) The IAFF employee official shall cease unauthorized activities immediately upon the request of the Fire Chief or designee.

### Section 3.5

- (a) Firefighters who travel or attend IAFF-sponsored training courses for professional development purposes may be reimbursed by the City in an amount to be determined and approved by the City Manager or designee if deemed in the best interests of the City.
- (b) Any bargaining unit member who is a duly elected officer of IAFF Local No. 3203 as President, Vice President, Secretary, Treasurer or designee may be authorized to use a maximum combined total of seventy-two (72) hours of paid leave per year to attend IAFF functions such as conventions, educational meetings, or conferences.
- (c) The IAFF may utilize the aforementioned provisions by having the IAFF representative in the bargaining unit notify the Fire Chief of the need for such leave, as soon as possible, but not less than fourteen (14) calendar days prior to the commencement of said leave, and provided that no more than one (1) bargaining unit member be on leave at any given time. Notification to the Fire Chief shall include documentation of the date and time of the event. The amount of leave granted shall be limited to the amount of time necessary to attend the event and to travel to and from the event. Any additional leave time for an overnight stay which would be necessitated due to the distance of the event location and/or the hour when the event concludes shall be mutually agreed upon by the Fire Chief and the President of Local 3203 or their respective designees.

Section 3.6 The City will provide a 17" by 22" bulletin board space at all staffed Fire Department facilities for posting of official IAFF business which shall relate to the following: (a) IAFF meetings; (b) notice of local IAFF elections; (c) results of local IAFF elections; and, (d) IAFF-sponsored recreational and social events. Any other material- posted must be approved by the City Manager or designee before it is posted on said bulletin board. In addition, the Bargaining Unit may have one file cabinet located in the basement of the Kenwood Road Fire Station that is similar in appearance to City-owned cabinets.

Section 3.7 The City shall provide the Union with copies of all standard operating procedures and changes to the Fire Department's rules and regulations.

Section 3.8 IAFF bargaining unit firefighters, in their discretion, may choose to affix one decal to their assigned helmet -- either the "9-11" memorial decal that several IAFF bargaining unit employees currently have been authorized to wear or a new standardized IAFF decal. They also may choose not to affix one of those two decals on their assigned helmet. Prior to issuing the standardized IAFF decal to those applicable IAFF bargaining unit firefighters, the IAFF shall submit it to the Fire Chief or designee for review and approval purposes. If approved, the standardized IAFF decals shall be provided to the bargaining unit firefighters at the IAFF's full cost.

#### ARTICLE 4 DUES/ PAYROLL DEDUCTION

Section 4.1 The City agrees to deduct Union membership dues in the amount certified by the Union to the City once each regular paycheck from the pay of any firefighter requesting same. If a dues deduction is desired, the firefighter shall sign a payroll deduction form which shall be furnished by the Union and presented to the appropriate payroll clerk. The City agrees to furnish to the Treasurer of the Union, once each calendar month a warrant in the aggregate amount of the deductions made for the calendar month, together with a listing of the firefighters for whom dues deductions were made and a listing of any change in deduction from the previous month.

Section 4.2 The IAFF hereby indemnifies and holds the City and/or the City's payroll clerk harmless from any and all claims of any nature arising out of or resulting from the operation of this deduction procedure and the making of the deductions and subsequent payments pursuant thereto and from any and all costs and expenses arising out of any such claim(s). Such costs and expenses shall include but not be limited to court costs, attorney fees, witness fees and expenses, court judgments and/or court-awarded damages and all other costs associated with the defense or prosecution of any such claim(s).

#### ARTICLE 5 NON- DISCRIMINATION

Section 5.1 The provisions of this Agreement shall be applied equally and without favoritism to all firefighters in the bargaining unit. There shall be no discrimination as to age, sex, marital status, race, color, creed, national origin, handicap, or political affiliation. The IAFF shall share equally with the Employer the responsibility for applying this provision of the Agreement.

Section 5.2 Both parties recognize and agree that affiliation with the IAFF is at the discretion of each individual firefighter. Firefighters in the classifications comprising the bargaining unit covered by this Agreement have the right to participate or not participate in the IAFF as they see fit. Neither party to this Agreement shall exert any pressure on any firefighter as regards such matters.

#### ARTICLE 6 MANAGEMENT RIGHTS

Section 6.1 The IAFF recognizes the City's exclusive right to manage its affairs and the City retains and reserves unto itself all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the Charter of the City of Blue Ash and the laws and constitutions of the State of Ohio and of the United States. Further, all rights which ordinarily vest in and are exercised by employers except such as are specifically relinquished herein are reserved to and remain vested in the City, including but without limiting the generality of the foregoing.

Section 6.2 The right to manage its affairs efficiently and economically, including the determination of quantity, quality, frequency and type of services to be rendered; the determination, purchase and control of the types and numbers of materials, machines, tools and equipment to be used; the selection of the location, number and type of its facilities and installations; and the addition or discontinuance of any services, facilities, equipment, materials or methods of operation.

Section 6.3 The right to hire and set the starting rate of pay for new firefighters; to determine the starting and quitting time and the number of hours to be worked, including overtime; and to determine the amount of supervision necessary, work schedules and the method or process by which work is performed, to the extent that it is in compliance with all other articles of this Agreement.

Section 6.4 The right to contract, subcontract and purchase any or all work, processes or services or the construction of new facilities or the improvement of existing facilities; to adopt, revise and enforce working rules and carry out cost control and general improvement programs; and to establish, change, combine or discontinue job classifications and prescribe and assign job duties, content and classification and establish wage rates for any new or changed classifications. In the event that contracting or sub-contracting would negatively impact the bargaining unit members, the City shall meet with and advise the Union of the effects upon the bargaining unit firefighters with sixty (60) days notice.

Section 6.5 The right to determine the existence or nonexistence of facts which are the basis of the Management decisions; to establish or continue policies, practices or procedures for the conduct of the Fire Department and its services to the citizens of Blue Ash, and, from time to time, to change or abolish such practices or procedures; the right to determine and, from time to time, redetermine the number, locations and relocations and types of its firefighters or to discontinue any performance of service by firefighters of the City of Blue Ash; to determine the number of hours per day or week any operation of the Fire Department may be carried on; to select and determine the number and types of firefighters required; to assign such work to such firefighters in accordance with the requirements determined by Management authorities; to establish training programs and upgrading requirements for firefighters within the Department; to establish and change work schedules and assignments; to transfer or promote firefighters, or to layoff, terminate or otherwise relieve firefighters from duty for lack of work or other legitimate reasons; to determine the facts of lack of work or other legitimate reasons; to continue, alter, make and enforce reasonable rules for the maintenance of discipline; to suspend, discharge, or take such measures as the Management may determine to be necessary for the orderly and efficient operation of the Fire Department of the City of Blue Ash, subject to the terms of this Agreement provided, however, nothing herein shall prevent firefighters from presenting their grievances for an alleged violation of any Article or specific term of this Agreement.

## ARTICLE 7 DISCIPLINE

Section 7.1 The City may take disciplinary action against any firefighter in the bargaining unit only for just cause.

Section 7.2 Any disciplinary action by the City against a firefighter shall be initiated within fifteen (15) calendar days of the City's knowledge of a violation leading to the disciplinary action. In the case of an internal investigation by the City or an outside criminal investigation, this section shall not apply.

Section 7.3 If the firefighter requests it, the Union and the firefighter will receive a copy of all memoranda sent to the Fire Chief and/or appearing in the firefighter's personnel file concerning disciplinary actions.

Section 7.4 Such disciplinary action, not necessarily listed in order of occurrence, may take the following form:

- a. Oral reprimand;
- b. Written reprimand;
- c. At the option of the Fire Chief, with concurrence of the firefighter, loss of vacation leave not to exceed twenty- four (24) hours;
- d. Suspension without pay;
- e. Discharge from employment.

## ARTICLE 8 TESTING

Section 8.1 Drug/Alcohol Testing. Firefighters may be required to take a drug or alcohol test if the Employer has reasonable suspicion that the firefighter is under the influence of drugs or alcohol. Firefighters may also be required to take random drug and/or alcohol tests and may be required to take drug and/or alcohol tests following a workplace accident or injury. These tests may be performed at a reputable facility. All testing will be done using accepted and recognized procedures similar to those currently in use for the City’s CDL employees, including procedures to protect individual privacy. Firefighters required to take these tests as outlined above shall suffer no loss of pay and will be supplied travel to and from the testing facility. The Employer shall pay all costs of the required tests. The firefighter will be provided with copies of the results of the tests.

Section 8.2 Polygraph Testing. Bargaining unit firefighters may be required to take polygraph tests. These tests will be administered in compliance with applicable state or federal laws. The firefighter will be provided with copies of the results of the tests.

## ARTICLE 9 PREDISCIPLINARY CONFERENCE

Section 9.1 Anytime the Employer or designee determines that a firefighter may be disciplined for cause (including only suspensions for more than 24 work hours, reductions or termination), a predisciplinary conference will be scheduled with the City Manager or designee to give the firefighter an opportunity to offer an explanation of the alleged conduct. The firefighter shall receive a list of the charges and their particulars at the time he/she is originally notified in writing that disciplinary action is being recommended for the alleged improper conduct.

Section 9.2 The firefighter may be represented at the predisciplinary conference by any person he/she chooses. The firefighter and the Employer shall provide a list of witnesses to each other as far in advance as possible, but not later than twenty-four (24) hours prior to the predisciplinary conference. It is the responsibility of each party to notify their witnesses that their attendance is desired.

Section 9.3 The firefighter or the firefighter's representative will be permitted to confront and cross examine witnesses. A written report will be prepared concluding whether or not the recommended discipline is appropriate. The Employer, in all cases, will decide what discipline, if any, is appropriate. A copy of the written report will be provided to the employee within five (5) calendar days following its preparation.

Section 9.4 Any firefighter who may be subject to disciplinary action (“charged firefighter”) and any employee being questioned regarding the charged firefighter shall be apprised of the following:

1. Failure to respond or respond truthfully to any questioning may result in disciplinary action;
2. The charged firefighter shall receive a list of the charges and their particulars not less than forty-eight (48) hours prior to the scheduled predisciplinary conference;
3. The charged firefighter shall be apprised of his/her right to representation and the right to postpone the hearing for no more than seventy-two (72) hours beyond the originally scheduled time;
4. The charged firefighter shall be apprised by the Fire Chief as to whether or not he/she has been suspended pending the outcome of the predisciplinary conference;
5. The charged firefighter may, in writing, waive the predisciplinary conference and/or submit a written statement on his/her behalf.

Section 9.5 Predisciplinary conferences shall be recorded and a charged firefighter shall be entitled, upon request, to a copy of the recordings not later than seventy-two (72) hours following the close of the predisciplinary conference.

Section 9.6 Any firefighter facing disciplinary action resulting in more than a written reprimand but not more than twenty-four (24) work hours suspension may request that said disciplinary action be reviewed by the City Manager or designee. Upon written request to the City Manager within forty-eight (48) hours of receipt of written notice of recommended disciplinary action, the City Manager or designee shall meet with the firefighter, review the facts, and make a final written determination regarding the recommended disciplinary action. Said meeting shall take place prior to the imposition of the recommended disciplinary action.

## ARTICLE 10 GRIEVANCE PROCEDURE

Section 10.1 The term “grievance” shall mean a difference or dispute between the parties or a firefighter concerning the application, meaning or interpretation of the expressed terms of this Agreement, unless otherwise specifically excluded. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement.

Section 10.2 In all grievance proceedings the firefighter has the right to represent himself/herself or to be represented by a representative of his/her choice.

Section 10.3 All grievances must contain the following information to be considered and must be filed using the grievance form mutually agreed to by both parties:

- a. Aggrieved firefighter’s name and signature;
- b. Aggrieved firefighter’s classification;
- c. Date grievance was filed in writing;
- d. Date and time grievance occurred;
- e. Where grievance occurred;
- f. Description of incident giving rise to the grievance;
- g. Articles and sections of Agreement violated;
- h. Desired remedy to resolve grievance.

Section 10.4 All grievances must be processed at the proper step in the progression in order to be

considered at the subsequent steps. If a firefighter or the IAFF fails to comply with the time limits set forth below, the grievance shall be considered withdrawn, and thereafter such grievance may not be presented for consideration or be made the basis for any action under this Agreement or otherwise. Any firefighter may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal. Any grievance not answered by the Employer's representatives within the stipulated time limits may be advanced by the firefighter to the next step in the grievance procedure. All time limits on grievances may be extended upon the mutual written consent of the parties.

Section 10.5 All grievances except those relating to layoff, suspension in excess of twenty-four (24) work hours, demotion or discharge (discussed in Section 10.8) shall be settled in the following manner:

Step 1. The aggrieved firefighter or the firefighter's representative shall orally present the facts to his/her Lieutenant or Captain (whoever serves as the firefighter's shift supervisor), within seven (7) calendar days of the date on which the grievance arose or which the firefighter became aware of the grievance. An oral discussion form will be signed by the aggrieved firefighter or the firefighter's representative and the Lieutenant or Captain to reflect the date of his/her oral grievance presentation. The Lieutenant or Captain shall render a decision within seven (7) calendar days from the date on which the grievance was submitted, and present same to the aggrieved firefighter or the firefighter's representative.

Step 2. If the grievance is not resolved in Step 1, the firefighter or the firefighter's representative shall submit a written grievance, within seven (7) calendar days after the

Lieutenant's response, to the Assistant Chief. The Assistant Chief shall respond in writing to the grievance within seven (7) calendar days from receipt of the grievance.

Step 3. If the grievance is not resolved in Step 2, the firefighter or the firefighter's representative shall present the written grievance to the Fire Chief within ten (10) calendar days from the response to the grievance from the Assistant Chief. The Fire Chief shall respond in writing to the grievance within ten (10) calendar days from his/her receipt of the grievance.

Step 4. If the grievance is not resolved in Step 3, the firefighter or the firefighter's representative shall present the written grievance to the City Manager or designee within ten (10) calendar days from the response to the grievance from the Fire Chief. The City Manager or designee shall render a written decision within ten (10) calendar days of receipt of the grievance form. The City Manager's or designee's decision concerning grievances regarding oral or written reprimands shall be final and binding and such grievance shall not be processed further and shall not be arbitrated.

Step 5. If the grievance is not resolved in Step 4 and does not concern an oral or written reprimand, the firefighter or the firefighter's representative, with the IAFF's approval, within twenty (20) calendar days from receipt of the City Manager or designee's response to the grievance may appeal the grievance by filing written notice with the City Manager requesting a Civil Service Commission hearing. The City Manager shall direct the Civil Service Commission to conduct a hearing on the appeal within thirty (30) calendar days from the City Manager's receipt of the notice of appeal. The City's Civil Service Commission shall render a decision within thirty (30) calendar days from the completion of the hearing.

Step 6. Within seven (7) calendar days of receipt of the response at Step 5, if the grievance is not resolved to the grievant's satisfaction, the grievant may file, with the IAFF's approval, a request for arbitration. Within ten (10) calendar days of a request for arbitration, an IAFF representative and the City Manager or designee shall meet and attempt to mutually agree to an arbitrator. If the City



and the IAFF cannot mutually agree upon an arbitrator in a specific case, then the parties shall utilize the arbitrator selection procedure set forth by the American Arbitration Association.

Section 10.6 Unless otherwise agreed to by the City and the IAFF, the Arbitrator shall render a decision in writing within thirty (30) calendar days of the hearing. If such decision is in conformity with the powers granted the Arbitrator herein, it shall be final and binding upon the parties. The sole function of the Arbitrator shall be to interpret the express written provisions of the Agreement and apply them to the specific facts presented at the hearing. The Arbitrator shall have no power or authority to change, amend, modify, add to, delete from, or otherwise alter this Agreement.

Section 10.7 The costs of the proceedings, including the expenses and compensation of the Arbitrator, and the rental of facilities, (if not on the Employer's premises) shall be borne by the losing party of such arbitration. The Arbitrator shall identify the losing party. If either party requests a transcript and exhibits for the Arbitrator, it shall be made and shall be the official record of the hearing. The cost of such transcript shall be borne by the party requesting it, except where the other party requests a copy of the transcript in which case the cost of the transcript shall be borne equally by both the City and the IAFF. All other expenses shall be borne by the party incurring them and neither party shall be responsible for the expenses of the witnesses called by the other.

Section 10.8 Any firefighter, appointed by the City Manager or designee, who is laid off, suspended for more than twenty-four (24) work hours, demoted or discharged may appeal in writing to the Civil Service Commission within ten (10) days after the effective date thereof.

An appeal may be withdrawn without prejudice, and if so withdrawn, all financial liabilities shall be cancelled. Where one or more appeals involve a similar issue, those appeals may be withdrawn without prejudice pending the disposition of the appeal of a representative case. In such event, the withdrawal without prejudice shall not affect financial liability.

The Civil Service Commission may affirm, reverse, vacate or modify the decision complained of in the appeal, including the substitution of any authorized disciplinary action that could have been imposed originally, provided that no claim for back wages shall exceed the amount of wages the firefighter would otherwise have earned at his/her regular rate, and in the case of discharge, less any other wages earned by the firefighter during the period involved while not receiving wages from the City. This will not include monies from an employment position held by the firefighter at the time of the disciplinary action.

Within seven (7) calendar days of receipt of the Civil Service Commission's decision, if the grievance is not resolved to the grievant's satisfaction, the grievant may file, with the IAFF's approval, a request for arbitration. Within ten (10) calendar days of a request for arbitration, an IAFF representative and the City Manager or designee shall meet and attempt to mutually agree to an arbitrator. If the City and the IAFF cannot mutually agree upon an arbitrator in a specific case, then the parties shall utilize the arbitrator selection procedure set forth by the American Arbitration Association. The arbitration procedure and process shall conform to the provisions set forth in Sections 10.6 and 10.7 of this agreement.

Section 10.9 The processing of a grievance may be started at the supervisory level at which the action which led to the grievance took place.

Section 10.10 A grievance may be brought by any member of the bargaining unit. Where a group of bargaining unit members desires to file a grievance involving a situation affecting each member in the same manner, one member selected by such group may process the grievance as a class action grievance, provided each firefighter desiring to be included in the class action grievance signs said grievance.

Section 10.11 The IAFF, through its president, may file grievances claiming violations of the recognition

clause or any claimed violation of contract rights which accrue solely to the IAFF as a labor organization and not to individual firefighters. Such grievances shall be initially filed within the time limits of Section 10.5, Step 1, but will be filed directly with the City Manager.

Section 10.12 The City, through its City Manager, may file grievances claiming violations of the Agreement by the IAFF as a labor organization. Such grievances shall be initially filed within the time limits of Section 10.5, Step 1, but will be filed directly with the chief employee representative of IAFF.

Section 10.13 Nothing in this Section prevents either party from seeking enforcement of any arbitration decision in a court of competent jurisdiction.

Section 10.14 In cases of emergency declared by the federal, state, or local government, the time limits for the processing of grievances shall automatically be suspended until further notice from the City Manager or designee.

Section 10.15 Any firefighter charged with, or under indictment for, a felony, who is not disciplined or discharged by the employer, may be placed on a leave of absence without pay until resolution of the court proceedings. A firefighter may use accrued but unused vacation or holiday time during the leave. A firefighter found guilty by the trial court of a felony shall be summarily discharged and shall have no recourse through the grievance or arbitration procedures. If the firefighter is found not guilty, the firefighter's lost wages and seniority will be reinstated. The firefighter shall continue to pay the firefighter's insurance premiums as provided for in this agreement during the unpaid leave of absence.

## ARTICLE 11 PROBATIONARY EMPLOYEES

Section 11.1 Each new firefighter shall be required to serve a probationary period of twelve (12) months. A newly hired probationary firefighter may be terminated at any time during his/her probationary period and shall have no right of appeal under this Agreement. Upon satisfactory completion of the probationary period, a firefighter shall be given regular status.

Section 11.2 Firefighters placed in a different classification within the bargaining unit shall be required to serve a probationary period of up to twelve (12) months. If his/her performance is unsatisfactory, he shall be returned to his/her former position without prejudice.

## ARTICLE 12 PERSONNEL FILES

Section 12.1 Each firefighter may inspect his/her personnel file maintained by the Employer during the firefighter's off-duty hours at a time mutually acceptable and shall, upon request, receive a copy of any documents contained therein. If a firefighter needs less than fifteen (15) minutes to review his/her personnel files, it may be done during duty hours provided it does not interfere with the work schedule for that day and approval is granted by the shift supervisor.

Section 12.2 If an unfavorable statement or notation is in the file, the firefighter shall be given the right to place a statement of rebuttal or explanation in his/her file within seven (7) calendar days of becoming aware of the placement of the document in his/her file. No anonymous material of any type shall be included in the firefighter's personnel file.

Section 12.3 Records of oral and/or written reprimands or suspensions shall not be utilized to determine the appropriate level of subsequent discipline two (2) years from the date of their issuance provided no intervening disciplinary action has occurred.

Section 12.4 The City shall not release personnel records unless required by law, court order, or subpoena.

### ARTICLE 13 SENIORITY

Section 13.1 “Seniority” shall be computed on the basis of uninterrupted length of continuous full-time service with the Employer. A termination of employment lasting less than thirty-one (31) days shall not constitute a break in continuous service. If continuous service is broken and the firefighter is not reinstated, the firefighter loses all previously accumulated seniority.

Section 13.2 An approved leave of absence does not constitute a break in continuous service provided the firefighter follows the proper procedure for such leave and returns to active service immediately following the expiration of the approved leave.

Section 13.3 Firefighters laid off shall retain their seniority for a period of eighteen (18) months from the date of layoff.

### ARTICLE 14 LAYOFF AND RECALL

Section 14.1 When the Employer determines that a long-term layoff or job abolishment is necessary, it shall notify the affected firefighters thirty (30) calendar days in advance of the effective date of the layoff or job abolishment. Firefighters will be notified of the Employer’s decision to implement any short-term layoff, lasting seventy-two (72) hours or less, no less than five (5) days in advance.

Section 14.2 Firefighters with the least seniority shall be laid off first.

Section 14.3 Firefighters who are laid off shall be placed on a recall list for a period of eighteen (18) months. If there is a recall, firefighters who are still on the recall list shall be recalled in the inverse order of their layoff. Any recalled firefighter requiring additional training to meet the position qualifications in existence at the time of recall must satisfactorily complete the additional training requirements within twelve (12) months of recall.

Section 14.4 Notice of recall shall be sent to the firefighter by certified mail. The Employer shall notify firefighters of any recall by mailing the recall notice by certified mail, return receipt requested, to the last mailing address provided by the firefighter.

Section 14.5 The recalled firefighter shall have ten (10) calendar days following the date of mailing of the recall notice to notify the Employer of his/her intention to return to work and shall have fourteen (14) calendar days following the date of mailing of the recall notice in which to report for duty, unless a different date for returning to work is otherwise specified in the notice or mutually agreed upon, in writing, by the parties.

ARTICLE 15  
NO STRIKE/NO LOCKOUT

Section 15.1 During the life of this agreement or any extensions hereof, the IAFF, on behalf of the firefighters comprising the bargaining unit, agrees there shall be no strikes, slowdowns, walkouts, refusal to perform assigned duties, sitdowns, picketing, boycotts or any activities which interfere directly with the operation of the City or the Fire Department.

Section 15.2 In the event any firefighter covered under this agreement is accused of engaging in activity in violation of Section 15.1 of this article, the IAFF shall immediately make attempts to cease the activity and resume normal work activities. The IAFF agrees not to oppose any injunctive relief sought by the City to return firefighters to duty and to cease any strike related activities.

Section 15.3 The IAFF agrees to be guided by Section 4117.15 of the Ohio Revised Code.

Section 15.4 During the life of this agreement or any extensions hereof, the Employer shall not cause, permit, or engage in any lockout or otherwise prevent firefighters from performing their regularly assigned duties where an object thereof is to bring pressure on the firefighters or a firefighter organization to compromise or capitulate to the Employer's terms regarding a labor relations dispute.

Section 15.5 Nothing in this Article shall be construed to limit or abridge the IAFF's or the Employer's right to seek other remedies provided by law to deal with any violation of Ohio Revised Code Section 4117.11(A) or (B).

ARTICLE 16  
WORK PERIOD AND OVERTIME

Section 16.1 The authority to establish work schedules, standard work periods, and standard work days shall be vested in the City Manager; the City Manager may at his/her discretion delegate this authority to supervisory personnel. Unless an emergency exists, the City shall give a ninety (90) day notice to firefighters of a change to a department work schedule. Unless an emergency exists, the City shall give a thirty (30) day notice to firefighters of any other changes. The authority to grant overtime compensation shall be vested in the City Manager or designee, provided that overtime compensation not be allowed except for work in excess of the standard work period. Only hours actually worked, compensatory time, vacation leave, and sick leave shall be counted in determining work in excess of the standard work period. Overtime compensation shall be allowed firefighters in these instances only if said work has the prior approval of the City Manager or of a supervisory employee to whom the Manager has delegated scheduling authority.

The current work schedule is as follows and is subject to the provisions set forth herein:

- (a) Bargaining unit firefighters currently work fifty-one (51) hours per week, on a schedule of twenty-four (24) hours of duty followed by forty-eight (48) hours off duty. The current shift established by the City commences at 0700 and continues through 0700 the following day.
- (b) Firefighters working a 24/48 shift based in a fifty-one (51)hour FLSA cycle shall receive eleven (11) unpaid twenty-four (24) hour days off from work per year, or 264 hours of annual unpaid time off (Kelly Days). Said Kelly Days shall be taken in the year in which they are earned and shall not carry forward. During the year, members shall be permitted to submit requests to modify their chosen Kelly Days. Requests shall be submitted not

less than five days (120 hours) prior to the requested date. Requested dates shall not result in the need for overtime and shall not cause any member to modify their previously scheduled day off on the same day. Future time off requests, due to a Kelly Day move, are not subject to seniority. The City shall determine the administration and scheduling of Kelly Days based upon operational needs and will be outlined in policy and agreed to by the union and Administration. No more than two firefighters shall be off on Kelly Days at the same time. Firefighters are not permitted to work on a scheduled Kelly Day and collect pay for hours worked unless approved by the Fire Chief due to staff shortages.

Section 16.2 Overtime compensation shall be monetary compensation at the rate of one and one-half (1 1/2) times the firefighter's regular hourly rate of pay that is in effect at the time overtime compensation is earned. Firefighters may elect to take all or any part of overtime hours in the form of compensatory time, in lieu of overtime pay. Compensatory time shall be compensated at the rate of one and one-half (1-1/2) hours off for each one (1) hour of overtime worked. Compensatory time may be accumulated by a firefighter, but only to a maximum of one hundred twenty (120) hours at any given time. In the event a firefighter accumulates one hundred twenty (120) hours of compensatory time, then any future overtime hours must be compensated with overtime pay. When a firefighter desires to use compensatory time off that he/she has accumulated, it shall be scheduled and granted, with the mutual consent of the firefighter and the Employer. A minimum of three (3) days notice shall be required to request the use of compensatory time.

Section 16.3 There shall be no pyramiding of overtime.

Section 16.4 The Employer reserves the right to require any and/or all firefighters to work overtime when the operational needs of the department require it.

Section 16.5 The current work schedule, which is subject to the provisions of Section 16.1 of this Article, will be posted in the Fire Department along with the vacation schedule and overtime list.

## ARTICLE 17 CALL-IN TIME

Section 17.1 Any firefighter called into work at a time outside of his/her regularly scheduled shift shall be paid the greater of the actual time worked or the minimum of two (2) hours. Bargaining unit firefighters shall be required to respond to recalls whenever possible.

## ARTICLE 18 WAGES AND COMPENSATION

Section 18.1 Annual rate for 2024 shall remain the same as 2023 annual rates with an adjustment to hourly rate based on workweek hours change (53 hours to 51 hours). Wage rates shall be increased in 2025 by 3% and 2026 by 3%.

**2024 Pay Plan Rates**  
**(2/17/24 – 2/14/25)**

	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
20IV	\$27.01	\$27.77	\$28.54	\$29.32	\$30.17	\$31.01
	\$71,624.49	\$73,652.43	\$75,680.37	\$77,767.09	\$80,000.76	\$82,234.44
22IV	\$29.62	\$30.44	\$31.30	\$32.17	\$33.08	\$34.01
	\$78,560.63	\$80,735.53	\$82,998.59	\$85,320.43	\$87,730.45	\$90,199.25

**2025 Pay Plan Rates**  
**(2/15/25 – 2/13/26)**

	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
20IV	\$27.82	\$28.61	\$29.39	\$30.20	\$31.07	\$31.94
	\$73,778.64	\$75,873.72	\$77,942.28	\$80,090.40	\$82,397.64	\$84,704.88
22IV	\$30.51	\$31.36	\$32.24	\$33.14	\$34.07	\$35.03
	\$80,912.52	\$83,166.72	\$85,500.48	\$87,887.28	\$90,353.64	\$92,899.56

**2026 Pay Plan Rates**  
**(2/14/26 – 2/12/27)**

	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>
20IV	\$28.65	\$29.47	\$30.27	\$31.11	\$32.00	\$32.90
	\$75,979.80	\$78,154.44	\$80,276.04	\$82,503.72	\$84,864.00	\$87,250.80
22IV	\$31.43	\$32.30	\$33.21	\$34.13	\$35.09	\$36.08
	\$83,352.36	\$85,659.60	\$88,072.92	\$90,512.76	\$93,058.68	\$95,684.16

**Section 18.2** The City Manager or designee shall be responsible for administering the pay plan for all positions. He/she shall be responsible for working out arrangements which will assure the administration of the plan for all bargaining unit members on an equitable basis. Bargaining unit members may be denied a pay step increase at its proper time for cause.

**Section 18.3** To compensate for additional experience and the appurtenant improvement of skills, abilities, and knowledge, a percentage increase in pay by progression from step to step shall be effected upon satisfactory completion of the probationary period and annually thereafter until the firefighter reaches Step “F” of the pay grade for the classification to which the firefighter’s position has been assigned.

Section 18.4 If a new firefighter has related work experience and more than the minimum qualifications for the classification to which his/her position is assigned, he/she may be hired above the minimum rate of pay and may be paid at an appropriate step within the range for the grade to which his/her position is assigned.

Section 18.5 The Employer agrees to pick-up contributions to the Police and Fire Pension System paid on behalf of the firefighters in the bargaining unit utilizing the salary reduction method. The pick-up shall become effective immediately following receipt of approval from the Internal Revenue Service.

## ARTICLE 19 WORKING OUT OF CLASSIFICATION

Section 19.1 Whenever a bargaining unit firefighter is assigned to serve as shift supervisor, that firefighter shall be compensated an additional 7.0% above his/her regular pay for those hours worked as shift supervisor. Firefighters are not eligible to be shift supervisors while working overtime. This assignment shall be voluntary unless no non-probationary firefighter accepts the assignment in which case it will be mandatory.

## ARTICLE 20 TRADES

Section 20.1 Each firefighter shall be granted leave with pay for any hour or hours on which he/she is able to secure another employee who will work in his/her place without pay, provided:

- (a) A substitution shall be granted with the approval of the Fire Chief or designee.
- (b) The Fire Chief or designee shall be notified in writing on forms supplied by the City for that purpose. Forms shall be signed by both parties involved in the special trade.
- (c) All trades must be in increments of one (1) hour. Trades shall be limited to a maximum of two per day per firefighter.
- (d) A firefighter who fails to report to work for a scheduled trade shall lose one and one-half (1 1/2) hours of accrued vacation leave for each hour of scheduled trade time missed.
- (e) Requests for trades shall be made at least six (6) hours in advance.
- (f) All trades shall be repaid within 120-days of the trade. Once approved by the Chief or designee, trades and the fulfilling of such are the sole responsibility of the employees who have agreed to the trade.
- (g) Failure to comply with these provisions may result in denial of future requests for a six (6) month period.

## ARTICLE 21 OUTSIDE EMPLOYMENT

Section 21.1 Outside employment of bargaining unit members shall be permitted at the discretion of the City. Such request shall not be unreasonably withheld. Bargaining unit firefighters shall be permitted to work as employees of other Fire Departments.

ARTICLE 22  
LONGEVITY

Section 22.1 All full-time firefighters appointed by the City Manager shall receive longevity pay computed at the rate of five dollars (\$5.00) per month for each complete calendar month of continuous service (e.g., \$180 after 36 complete calendar months from date hired, \$300 after 60 complete calendar months from date hired, \$350 after 70 complete calendar months from date hired) after thirty-six (36) complete calendar months of continuous service or after twelve (12) complete calendar months of service at Step “F” of the pay plan, payable in the first half of the month of December annually. Annual longevity pay is only paid to eligible employees who are on the City payroll through November 30.

Section 22.2 Individuals retiring within the period including June 30 through November 30 shall be eligible to receive a final longevity payment computed at the rate of five dollars (\$5.00) per month for each complete calendar month of continuous service. Individuals retiring within the period including December 1 through June 29 shall not be eligible for a final longevity payment.

ARTICLE 23  
INSURANCE

Section 23.1 The Employer will pay the same percentage of the applicable monthly cost for regular full-time bargaining unit firefighters that it pays for all non-union employees. The Employer will pay the same percentage of the applicable monthly cost for regular full-time bargaining unit firefighters that it pays for all non-union employees to provide them with hospitalization, dental, optical and life insurance (equivalent to annual base salary rounded to the next highest thousand for natural death or single dismemberment and twice the firefighter’s annual base salary rounded to the next highest thousand for accidental death or double dismemberment). The firefighter's share of the premium will not exceed five (5) percent in the first year that firefighters make premium contributions, seven and a half (7.5) percent in the second year, and ten (10) percent in the third year. The Employer will offer an IRS 125 plan that allows firefighters to make premium contributions using pre-tax dollars, provided such a plan is allowed under applicable IRS regulations. The Employer reserves the right to select such insurance and to make any changes in coverage it deems appropriate.

Section 23.2 The City will pay two thousand dollars (\$2,000.00) annually, paid on a monthly basis, for employees who opt out of medical insurance coverage. An employee choosing to opt out of medical insurance coverage provided by the Employer will be required to show evidence of other coverage.

Section 23.3 The Employer will provide a thirty (30) calendar day notice in the event of a change in carrier(s) and/or coverage. No notice shall be necessary where such changes are caused by new laws, carrier-initiated action, or provider changes.

Section 23.4 The Employer shall maintain professional liability insurance coverage of bargaining unit firefighters, as determined by the City Manager or designee, for the life of this Agreement.

ARTICLE 24  
TRAVEL AND TRAINING ALLOWANCES

Section 24.1 Any legitimate expense allowance authorized by ordinance or established City policy shall be in addition to regular salary and shall not be deducted from money salary payable.

Section 24.2 Firefighters required to use their own vehicle: (1) on official City business; or (2) for City-related



travel, approved by the City Manager or designee, as being in the best interests of the City, shall be reimbursed at the then current I.R.S. mileage reimbursement allowance rate plus parking expenses incurred for which receipts are presented to the Treasurer.

Section 24.3 Firefighters who travel: (1) on official City business; or (2) for training or professional development purposes, approved by the City Manager or designee as being in the best interests of the City, shall be reimbursed for reasonable travel expenses, including air, rail or bus fares, parking, lodging and meals. The City Manager or designee may establish maximum reimbursable limits for travel expenses.

Section 24.4 Registration fees for conferences, seminars or other such events deemed to be in the best interests of the City, when approved by the City Manager or designee, shall be paid for the firefighter either by direct payment, by advance or by reimbursement. If other financial aid is unavailable, and if approved by the City Manager or designee in advance, a firefighter may be reimbursed for tuition and book expenses incurred in taking and successfully completing (grade "C" or better in instances where grades "A" through "F" are attainable) college course work or other advanced training to upgrade said individual, the performance of his/her job duties and the image of the municipal service.

## ARTICLE 25 CONTINUING EDUCATION

Section 25.1 The City shall compensate firefighters for attending continuing education programs outside of the department for maintaining Fire, Paramedic, or EMT certification up to a maximum of twelve (12) hours per calendar year.

## ARTICLE 26 HOLIDAYS

Section 26.1 All firefighters who are not assigned to a regular forty (40) hour work week schedule shall receive regular holiday pay in the month of December in lieu of paid leaves of absences solely for the following holidays listed below. If, however, a firefighter is regularly scheduled to work on any of the following holidays, then he/she shall be paid at a rate of one and one-half (1 and 1/2) times his/her regular rate of pay for all hours actually worked (except Good Friday, which is for the first four (4) hours worked) and this shall be in addition to regular holiday compensation (8 hours at regular rate of pay except Good Friday which is 4-hours):

- New Year's Day (January 1)
- Washington/Lincoln Day (3rd Monday in February)
- Good Friday (4 hours)
- Memorial Day (last Monday in May)
- Independence Day
- Labor Day (1st Monday in September)
- Veteran's Day (November 11)
- Thanksgiving Thursday (4th Thursday in November)
- Thanksgiving Friday (4th Friday in November)
- Christmas Eve
- Christmas Day

If a firefighter is regularly scheduled to work on Independence Day, Thanksgiving Day, Christmas Eve, or Christmas Day, he/she shall not be able to take any or all of those four (4) days off, in whole or in part, except by utilizing a trade as set forth in Article 20 of this contract.

Firefighters who are assigned to a regular forty (40) hour work week schedule or working light duty assignments shall receive paid leaves of absences on the holidays referenced above in accordance with City-wide pay practices, and such firefighters are required to take time off on the holidays referenced above.

Section 26.2 When any holiday falls on a Sunday, the Monday immediately following shall be observed. When any holiday falls on a Saturday, the Friday immediately preceding shall be so observed. This provision shall apply only to firefighters whose regularly scheduled off days are Saturday and Sunday.

## ARTICLE 27 VACATION

Section 27.1 Vacation leave accrues at the rate of 10.6 hours per full month of work for firefighters having completed less than four (4) years of service; 13.25 hours per month for firefighters having completed four (4) years of service; 15.89 hours per month for firefighters having completed eight (8) years of service; 18.54 hours per month for firefighters having completed twelve (12) years of service; 21.19 hours per month for firefighters having completed sixteen (16) years of service; and 23.84 hours per month for firefighters having completed twenty (20) years of service.

Section 27.2 Vacation shall be taken off with full pay during the year in which it is earned, unless the City Manager or designee deems it to be in the best interest of the municipal service to allow a portion of a firefighter's earned vacation leave to be carried over into the following year.

Section 27.3 The scheduling of vacation shall be made by seniority unless the needs of the department dictate otherwise. Requests for vacation leave shall be submitted five (5) days in advance.

Section 27.4 Vacation leave shall be taken in increments of not less than one (1) hour. Upon two (2) hours notice (if practicable) to the Fire Chief or designee, a firefighter may utilize up to twenty- four (24) total hours per calendar year of his/her unused and available vacation leave balance for emergency situations. Such vacation leave for emergency situations shall be taken in increments of one (1) or more hours.

Section 27.5 Upon resignation in good standing, retirement, or upon the death of a firefighter the total vacation balance will be prorated by multiplying the firefighter's accrued balance by .755 and said firefighter shall be entitled to payment of accrued but unused vacation leave based upon the firefighter's current rate of pay.

Section 27.6 Bargaining unit members on vacation leave shall not be required to work overtime, nor be subject to recalls until such leave has been completed. This provision may be waived during an emergency period declared by the City Manager or designee. Bargaining unit members who choose to be available for overtime and recalls while on vacation leave will notify the Chief in writing prior to said vacation leave.

Section 27.7 For bargaining unit firefighters hired by the City on or after December 1, 1989, up to six (6) years of full-time employment in public safety field of any other Ohio municipality, township, county, or the State of Ohio shall be counted for the purpose of determining the number of hours of vacation for which a bargaining unit firefighter is eligible.

## ARTICLE 28 SICK LEAVE

Section 28.1 Sick leave with full pay may be granted to the extent earned and accumulated by a firefighter, provided that it is not abused. Credit for sick leave is earned at the rate of 13.25 hours per

calendar month of active pay status.

Section 28.2 At the time of initial employment, a firefighter may be credited with unused sick leave accumulated while in the employment of another Ohio municipality, township, county, school district or the State of Ohio, for which he/she had not been compensated.

Section 28.3 A firefighter may use accumulated sick leave for the following purposes:

- i. In case of a firefighter's personal illness, medical condition, disability, or injury.
- ii. Funeral Leave:
  - a. Up to forty (40) hours per occurrence for death of spouse or children, including step-children. [NOTE: 48 hours for a firefighter not assigned to a regular 40 hour workweek.]
  - b. Up to twenty-four (24) hours per occurrence for death of parents (including step-parents), siblings (including step-siblings), grandparents, grandchildren, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.
  - c. Up to eight (8) hours per occurrence for death of grandparent of spouse, or a firefighter's aunt, uncle, nephew, niece, or cousin to attend a funeral. [NOTE: 24 hours for a firefighter not assigned to regular 40 hour work week.]
- iii. Hospitalization of Family Members:
  - a. Up to forty (40) hours per occurrence to attend inpatient hospitalization and, if necessary, care thereafter, of a firefighter's spouse or children (including step-children), and up to eight (8) hours per occurrence for hospitalization of a firefighter's parents (including step-parents). [NOTE: 48 hours and 12 hours for a firefighter not assigned to regular 40 hour workweek.]
  - b. Up to sixteen (16) hours per occurrence to attend outpatient hospitalization and, if necessary, care thereafter of a firefighter's spouse or children (including step-children), and up to eight (8) hours per occurrence for a firefighter's parents (including step-parents). Continuing treatment for a single illness or injury shall be defined as a single occurrence. [NOTE: 24 hours and 12 hours for a firefighter not assigned to a regular 40 hour workweek.]
- iv. Personal Care
  - a. Up to twenty-four (24) hours per calendar year to attend to members of a firefighter's immediate family whose illness or injury requires the care of a firefighter. Immediate family includes spouse, mother, father, sister, brother, daughter, son, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step mother, step father, step sister, step brother, step daughter, step son, or other person who stands in the place of a parent, or other relative residing in the same household as the firefighter.

- v. Medical, dental, or optical examination or treatment of a firefighter which cannot be scheduled during non-working hours.

The City Manager may require reasonable evidence to support a claim for sick leave and may, in case of absence for more than twenty-four (24) consecutive working hours, require a doctor's certificate to justify the absence. The monitoring of sick leave usage of all firefighters shall be accomplished under the provisions of the then-current Sick Leave Policy as drafted and issued by the City Manager.

Section 28.4 Sick leave shall be used in minimum increments of one (1) hour for any hour or fraction of an hour taken by a firefighter. Sick leave usage shall be charged against the firefighter's sick leave balance at a rate of one (1) hour for each hour taken.

Section 28.5 Members of the bargaining unit with sick leave accumulation of more than 180 hours shall be eligible upon written request, and upon review of and written approval by the City Manager or designee, to knowingly and voluntarily transfer annually up to eighty (80) hours of sick leave credit to another firefighter who has exhausted his/her sick leave, vacation leave, and compensatory time as a result of serious illness or injury.

Firefighters who transfer sick leave credit to another firefighter must have a minimum accumulation of 180 sick leave hours in excess of the hours transferred as of the date of the written request to the City Manager or designee.

Firefighters who have a history of abusing sick leave and/or excessive sick leave usage may not be entitled to receive transferred sick leave.

Firefighters may not receive more than a total of 1,380 hours transferred sick leave during their employment with the City.

Section 28.6 Members of the bargaining unit recognize that they are expected to maintain a level of physical fitness and appearance to effectively perform their duties as a firefighter. The Employer shall establish reasonable fitness standards based upon recognized health/fitness professional guidelines with which members of the bargaining unit shall comply. Failure to maintain these standards may result in disciplinary action.

Section 28.7 Upon resignation in good standing, retirement, or upon the death of a firefighter, the total sick leave balance will be prorated by multiplying the firefighter's accrued balance by .755.

Section 28.8 Upon resignation in good standing from the Blue Ash municipal service or upon the death of a firefighter and the firefighter or his/her estate shall receive one (1) hour of monetary compensation for each eight (8) hours of unused sick leave; the monetary compensation shall be at the rate of compensation of the firefighter at the time of resignation or death up to a maximum pay out of 120 eight (8) hour days (i.e. 960 hours). If the firefighter is given credit for his/her accumulated sick leave at his/her next place of employment, no sick leave pay-out shall be made.

Section 28.9 If upon the retirement under the Police and Firemen's Disability Pension Fund System from the City's municipal service, a bargaining unit member has less than twelve (12) years of full-time service with the City, the employee shall receive two (2) hours of monetary compensation for each eight (8) hour day of unused sick leave up to a maximum pay out of 120 eight (8) hour days (i.e. 960 hours). The monetary compensation shall be at the hourly rate of compensation of the employee at the time of retirement.

If upon the retirement under the Police and Firemen's Disability Pension Fund System from the City's municipal service, a bargaining unit member has at least twelve (12) years of full-time service with the City,

the employee shall receive three (3) hours of monetary compensation for each eight (8) hour day of unused sick leave up to a maximum pay out of 120 eight (8) hour days (i.e. 960 hours). The monetary compensation shall be at the hourly rate of compensation of the employee at the time of retirement.

ARTICLE 29  
MISCELLANEOUS LEAVES

Section 29.1 Leave for jury duty and related public service where such are in the best interests of both the public and the firefighter may be approved by the City Manager or designee with full pay, less any compensation that the firefighter receives for performance of such duty or service, provided the firefighter promptly returns to work when excused temporarily or permanently from the jury duty or public service.

Section 29.2 Reasonable leaves with pay may be authorized by the City Manager or designee for official meetings, training and professional development found to be in the best interest of the City.

ARTICLE 30  
INJURY LEAVE AND INJURED ON DUTY LEAVE

Section 30.1 Extended leave of absence for a period of time not exceeding one (1) year may be granted by the City Manager or designee in cases where a firefighter suffers an injury, temporary disability, extended illness or disease which makes it impossible, unfeasible, unsafe or otherwise inadvisable for the firefighter to perform the duties of his/her job. Compensation during such extended leave shall be compensatory pay, holiday pay, vacation pay and sick pay. (In appropriate cases, the firefighter may receive workers' compensation from the State of Ohio.) When a firefighter's earned vacation, compensatory leave, and sick leave are exhausted, the City shall have no further obligation for compensation for the remaining duration of the leave. Earned vacation leave and sick leave shall be the amount of time earned or accumulated for said leaves prior to commencement of the extended leave of absence; additional credit for vacation leave and sick leave shall not be earned during an extended leave of absence. In order to receive compensation, the firefighter should provide a full report from the treating physician to the City Manager or designee on a monthly basis. After one (1) year of extended leave of absence, a firefighter shall return to work or be removed from the payroll entirely. The firefighter may return to work at the end of the one (1) year's extended leave or prior thereto only upon presenting written verification from a physician of the City's choice that the firefighter can perform the duties of his/her job without endangering the firefighter or his/her fellow firefighters.

Section 30.2 Whereas, the City of Blue Ash wishes to provide supplemental benefits and does not wish to provide benefits in lieu of those provided by the Ohio Workers' Compensation Law;

Whereas, in recognition of the policy reflected in Sec. 4123.02 of the Ohio Revised Code and Ohio Attorney General's Opinion 79-014;

The following policies shall govern injured-on-duty pay for bargaining unit members. The firefighter shall be a full-time firefighter who sustains an injury (which also shall include an "occupational

disease" -- as determined by the Ohio Industrial Commission) received in the course of, and arising out of, the injured firefighter's employment and must meet the following criteria:

- (A) Criteria for Injured-on-Duty Pay

- (1) A full-time Fire Department firefighter sustains an injury (or “occupational disease”) while fighting or investigating a fire, administering emergency aid or in the act of performing other emergency duties.
- (2) A full-time Fire Department firefighter sustains an injury (or “occupational disease”) while participating in approved, scheduled and posted bona fide training classes related to fire scene and/or emergency scene operations.
- (3) If a firefighter sustains an injury (or “occupational disease”) in the line of duty in a manner other than described hereinabove (Subsection 1) for which the firefighter believes that he/she is legitimately entitled to injured-on-duty pay, then that firefighter may present the facts and supporting documentation to the Fire Chief. After the Fire Chief reviews the matter, the firefighter may then present it to the City Manager or designee for further review. If the matter is reviewed by a designee, the designee shall convey a recommendation to the City Manager on whether or not injured-on-duty pay should be extended to the employee. The City Manager shall then determine whether or not this policy should be extended to cover, on an exceptional basis, the particular injury (or “occupational disease”) suffered by the firefighter. The decision of the City Manager shall be final.

Firefighters shall not be entitled to Injured-on-Duty Pay for service connected injuries which are the result of gross negligence, recklessness, intentional self-infliction, or horseplay.

(B) Duties of Immediate Supervisor

- (1) Arrange for prompt medical attention.
- (2) Immediately prepare injury report, while the facts are clear. Keep copy for department files.
- (3) Forward report to Fire Chief and City Manager or designee.

(C) Injured-on-Duty Pay for Firefighters

- (1) A full-time firefighter disabled in the performance of his/her duty while performing a duty as specified in Section A above shall, on recommendation of the Fire Chief and approval of the City Manager, be entitled to his/her base salary for the period of such disability not to exceed a total of 365 consecutive calendar days per approved injured-on-duty incident. The pay shall start immediately after the injured firefighter (or one with an “occupational disease”) has been unable to perform any duties in the fire service.
- (2) The “365 consecutive calendar days” period set forth above in Section (c) (1) refers to the maximum amount of time that a full-time firefighter may receive his/her base salary per approved injured-on-duty incident. It normally contemplates a situation where a full-time firefighter is off work for 365 consecutive calendar days. If, however, that full-time firefighter is granted injured-on-duty pay, returns to work before the end of the 365 consecutive calendar day period (which starts on the first calendar day of his/her approved injured-on-duty incident) and then must return to injured-on-duty status (again within that same 365 consecutive calendar day period) solely due to the same medically documented disabling condition that initially entitled him/her to injured-on-duty pay, then he/she shall continue to receive injured-on-duty pay, as set forth above, for that subsequent related absence. Any absences, allegedly due to that same medically documented disabling

condition that initially entitled him/her to injured-on-duty pay, that begin more than 365 consecutive calendar days after the first calendar day of his/her initial injured-on-duty incident shall not be covered by injured-on-duty pay.

- (3) The City shall consider the medical judgment of the firefighter's treating physician concerning the injured firefighter's (or one with an "occupational disease") ability to work either regular or special (as determined by the City) duties. The injured firefighter (or one with an "occupational disease") shall advise the treating physician to issue the City Manager or designee a written report fully describing the nature and extent of the firefighter's injury (or "occupational disease"), the effect of the injury (or "occupational disease") on the firefighter's ability to perform full or limited duties, and the anticipated time period for recovery from the injury or "occupational disease". The firefighter shall authorize the treating physician to release information to the City Manager or designee regarding the firefighter's injury or "occupational disease" and the physician's examination and findings pursuant thereto including answering pertinent questions of the City Manager or designee.

Section 30.3 If the City and the treating physician disagree concerning an injured-on-duty pay case, the City may send at no expense to the firefighter, the firefighter to a physician of the City's choice for an examination, evaluation and recommendation. Said physician acts as the City Physician. The medical decision rendered by the firefighter's treating physician shall govern an injured-on-duty pay determination unless:

- a. The treating physician changes his/her diagnosis or prognosis after being contacted by the City or consulted by the City Physician;
- b. The City Physician offers a different diagnosis and/or prognosis than the treating physician.

Section 30.4 If the injured firefighter (or one with an "occupational disease") disagrees with the decision rendered in accordance with Section 30.3, the firefighter may request a third physician's opinion. The third physician shall be selected by the treating physician and the City Physician. The opinion of the third physician shall be binding on both the City and the firefighter. The cost of the third physician shall be shared equally by the firefighter and the City.

Section 30.5 Injured-on-duty pay is coded separately on the payroll attendance record by using the code IDP in the column marked "other". No time is deducted from the firefighter's sick leave balance while he/she is receiving injured-on-duty pay. A firefighter shall continue to receive vacation, holiday and sick leave credit during the injured-on-duty pay period. The injured firefighter (or one with an "occupational disease") shall be required to file an application for medical benefits from the Workers' Compensation Fund of the State of Ohio. The injured firefighter (or one with an "occupational disease") shall be required to assign any funds received as lost wages from Workers' Compensation while receiving injured-on-duty pay to the Treasurer of the City of Blue Ash.

Section 30.6 If, upon the expiration of an employee's approved IOD leave, an employee does not return to work, is unable to return to work, or is unable to perform the essential functions of the position, the employee shall be separated for medical reasons. If during the pendency of an IOD leave it is determined (using the physician opinion procedure outlined in 30.3 and 30.4) that an employee will not be able to return to work after the IOD leave expires, the City may separate the employment of the employee for medical reasons.

ARTICLE 31  
LIGHT DUTY ASSIGNMENTS

Section 31.1 When the City temporarily assigns a firefighter to light duty due to health or work restrictions, the firefighter shall continue to receive his/her regular compensation and fringe benefits throughout the period of light duty. Light duty assignments shall be made at the discretion of the Employer, and shall be based upon departmental operational needs as well as the condition and abilities of the firefighter at the time of the disability. The Union agrees that there is no requirement that the Employer create light duty assignments.

ARTICLE 32  
SEVERANCE PAY

Section 32.1 A firefighter who leaves the employ of the Employer in good standing shall receive pay for all hours worked but unpaid, two (2) hours of monetary compensation for each eight (8) hours of unused sick leave up to a maximum pay out of 120 eight (8) hour days (i.e. 960 hours), all earned but unused vacation leave, and a pro rata share of his/her longevity entitlement. Vacation and sick balances will be prorated by multiplying the balances by .755 prior to payout.

Section 32.2 All severance pay shall be paid at the firefighter's present rate of pay.

Section 32.3 In the event of death of a firefighter, any severance pay to which the firefighter would have been entitled shall be paid directly to the designated beneficiary, or to the firefighter's estate, if no beneficiary is named.

ARTICLE 33  
LABOR/MANAGEMENT MEETINGS

Section 33.1 In the interest of sound labor/management relations, the Employer and/or the IAFF, by and through not more than three (3) bargaining unit representatives, may request, in writing, a meeting to be held during the first month of each quarter on a mutually agreeable day and time, to discuss pending problems and to promote a more harmonious labor/management relationship. IAFF representative(s) attending such meetings shall not, if the meetings are held during their normal duty hours, suffer any loss of pay for time spent in such meetings.

Section 33.2 The party requesting the meeting shall furnish a detailed agenda at least five (5) working days in advance of the scheduled meetings with a list of the specific issues to be discussed during the meeting, and the names of those IAFF representatives who will be attending. No issue, however, shall be included in the detailed agenda that has not previously been formally discussed with the Fire Chief. Finally, no issue shall be discussed at the meeting if it does not appear on the detailed agenda. The purpose of such meeting shall be to:

- a. Discuss the administration of this Agreement.
- b. Notify the IAFF of changes made by the Employer which affect bargaining unit members of the IAFF.
- c. Discuss grievances which have not been processed beyond the final step of the grievance procedure when such discussions are mutually agreed to by the parties.
- d. Disseminate general information of interest to the parties.



- e. Discuss ways to increase productivity and improve efficiency.
- f. Consider and discuss health and safety matters relating to firefighters.
- g. Provide an opportunity to the IAFF to share the views of its membership and/or make suggestions on subjects of interest to its members.

Section 33.3 It is further agreed that if such a labor/management meeting has been requested and is mutually agreed upon, it shall be convened as soon as feasible. If there is a perceived immediate health or safety issue the parties can agree to meet at a time other than the scheduled meeting.

ARTICLE 34  
UNIFORMS

Section 34.1 The City shall furnish all required uniforms as determined by the Fire Chief for the firefighters of the Fire Department. Fitness training apparel consisting of a sweat suit and gym shoes shall also be provided to firefighters upon the apparel wearing out. The type and quantity shall be determined by the City.

ARTICLE 35  
PROTECTIVE CLOTHING AND EQUIPMENT

Section 35.1 The City shall determine the need for safety equipment consistent with work requirements and will furnish, and thereafter maintain at no cost to the firefighter, said equipment. All protective clothing and equipment supplied by the City shall meet safety standards as required by the Ohio Industrial Commission within the times required.

ARTICLE 36

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ARTICLE 37  
GENERAL CONDITIONS

Section 37.1 This written Agreement constitutes the entire agreement between the Employer and the IAFF and supersedes any and all prior agreements, whether written or oral, or expressed or implied, between or concerning the firefighters and the Employer. Except as set forth in Article 38, Severability, any amendment, modifications, or additions to this Agreement must be reduced to writing and duly signed by the parties to be effective.

Section 37.2 Each party hereto unequivocally waives any right to bargain further, as well as any obligation of the other party to bargain further, concerning any subject which is referred to or covered in this Agreement or with respect to any subject or matter that was or could have been proposed and/or discussed in the negotiations resulting in the execution of this Agreement.

**ARTICLE 38**  
**SEVERABILITY**

Section 38.1 This Agreement supersedes and replaces all pertinent statutes, rules, and regulations over which *it* has authority to supersede and replace. Where this Agreement is silent, the provisions of applicable local and state law shall prevail. Should any article, section or portion of this Agreement be held unlawful and unenforceable by any court, legislative or administrative tribunal of competent jurisdiction, then such decision or legislation shall apply only to that specific article, section or portion of the Agreement. The parties agree that should any provision of this Agreement be found invalid, they will schedule a meeting within thirty (30) calendar days at a mutually agreeable time to negotiate alternative language. The remainder of the Agreement shall remain in full force and effect.

**ARTICLE 39**  
**DURATION**

Section 39.1 This Agreement shall be effective February 17, 2024 and shall remain in full force and effect through February 12, 2027. It is agreed that this Agreement shall renew itself automatically from year to year unless either of the parties hereto notifies the other party no earlier than 110 and no later than 60 days prior to the expiration date February 12, 2027 of its intention to terminate or modify this Agreement. Such notice shall be hand-delivered to either the City Manager or a designated member of the bargaining unit.

Section 39.2 All sections of this Agreement shall remain in force and effect until a new Agreement is reached.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 14<sup>th</sup> day of March 2024.

**FOR THE CITY OF BLUE ASH, OHIO**

**FOR THE INTERNATIONAL ASSOCIATION OF  
FIREFIGHTERS**

\_\_\_\_\_  
David Waltz, City Manager

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Sherry Poppe, Treasurer

\_\_\_\_\_  
Alternate Representative

\_\_\_\_\_  
Lori Chaney, Human Resources

\_\_\_\_\_  
Alternate Representative

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Bryan E. Pacheco, Solicitor

RESOLUTION NO. 2024-15

PROVIDING FOR AMENDMENTS WITHIN THE 2024 ANNUAL  
APPROPRIATION RESOLUTION NO. 2023-81

Be it resolved by the Council of the City of Blue Ash, Ohio,

SECTION I.

The 2024 Annual Appropriation Resolution 2023-81 is hereby amended to include the budget amendments itemized on the attachment hereto.

SECTION II.

The City Manager is hereby authorized to incur obligations against the budget amendments and to make and approve expenditures therefrom, in accordance with the Charter and legislation of the City of Blue Ash, Ohio.

SECTION III.

The Treasurer shall perform all duties required by the Charter and legislation of the City of Blue Ash, Ohio, relative to budget amendments on the attachment hereto.

SECTION IV.

The Treasurer is hereby authorized to request an Amended Certificate from the Hamilton County Budget Commission.

SECTION V.

This resolution shall be in full force and take effect immediately upon its adoption as provided in Section 9.05 of Article IX of the Charter of the City of Blue Ash, Ohio.

PASSED this 14<sup>th</sup> day of March, 2024.

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Jill Cole, Mayor

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Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

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Bryan E. Pacheco, Solicitor

2024 Budget Amendment

	REVENUE	EXPENDITURE APPROPRIATIONS			
	Changes	Personal Services	Operating	Capital	Other Financing Uses
508.890.525300 Construction - Kenwood Road TIF Fund				177,219.00	
Additional budget from fund balance for the Kenwood Road Bridge Project					

RESOLUTION NO. 2024-16

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR ARCHITECTURAL AND ENGINEERING PROFESSIONAL SERVICES ASSOCIATED WITH THE BLUE ASH RECREATION CENTER POOL RENOVATION PROJECT

WHEREAS, Section 9.12 of Article IX of the Charter of the City of Blue Ash, Ohio, provides the method under which the City Manager shall make purchases and enter into contracts on behalf of the City; and

WHEREAS, the City of Blue Ash advertised Request for Qualifications for qualified design firms in the *Cincinnati Enquirer* on Thursday, January 25, 2024, for architectural and engineering professional services of the Blue Ash Recreation Center Pool Renovation Project, receiving four Request for Qualification Packets and four Proposals; and

WHEREAS, the Project Team recommends that a contract be authorized with Brandstetter Carroll Inc. for professional architectural and engineering services associated with the Recreation Center Pool Renovation Project.

Be it resolved by the Council of the City of Blue Ash.

SECTION I.

The City Manager is hereby authorized to enter into a contract with Brandstetter Carroll Inc. for professional architectural and engineering services associated with the Blue Ash Recreation Center Pool Renovation Project for the fee and hourly amounts not to exceed those described below.

Architect's Basic Services – Percentage Fee of 8% based upon Construction Costs.

The fee will be billed monthly based upon the following schedule:

Pre-Design Services	Lump Sum - \$10,000
Schematic Design	15%
Design Development	15%
Construction Documents	45%
Bidding	5%
Construction Administration	20%

Principal .....	\$250
Senior Professional Engineer .....	\$250
Senior Registered Architect .....	\$250
Senior Registered Landscape Architect.....	\$200
Survey Crew.....	\$125
Registered Surveyor.....	\$120
Project Engineer.....	\$125
Registered Architect .....	\$175
Certified Interior Designer.....	\$150
Landscape Architect.....	\$130
Construction Administrator .....	\$130
Senior Technician.....	\$100

Planner .....	\$95
Engineer in Training .....	\$100
Intern Architect .....	\$85
Intern Interior Designer .....	\$75
Intern Landscape Architect .....	\$75
Resident Inspector.....	\$110
Auto CAD/GIS Operator .....	\$65
Clerical .....	\$55

SECTION II.

The Treasurer is hereby authorized to expend the necessary funds therefor, which funds are hereby appropriated.

SECTION III.

This resolution shall be in full force and take effect immediately upon its adoption as provided in Section 9.05 of Article IX of the Charter of the City of Blue Ash, Ohio.

PASSED this 14<sup>th</sup> day of March, 2024.

\_\_\_\_\_  
Jill Cole, Mayor

\_\_\_\_\_  
Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Bryan E. Pacheco, Solicitor

RESOLUTION NO. 2024-17

AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
CONTRACT FOR THE 2024 KENWOOD ROAD BRIDGE  
RECONSTRUCTION FOR THE UNIT PRICES AS SHOWN ON  
THE ATTACHED BID SUMMARY

WHEREAS, Section 9.12 of Article IX of the Charter of the City of Blue Ash, Ohio, provides the method under which the City Manager shall make purchases and enter into contracts on behalf of the City; and

WHEREAS, the City of Blue Ash advertised for bids on the Bid Express website, for the 2024 Kenwood Road Bridge Reconstruction; and

WHEREAS, the City received four bids which were opened and made public via BidExpress.com on Thursday, February 29, 2024, and subsequently reviewed with regard to quality, service, past performance, and price; and

WHEREAS, the bid submitted by Sunesis Construction Co., 2610 Crescentville Rd, West Chester, OH 45069, for the unit prices as shown on the attached bid summary appears to be the most responsive bid based upon quality, service, past performance, and price.

Be it resolved by the Council of the City of Blue Ash, Ohio.

SECTION I.

The City Manager is hereby authorized to enter into a contract with Sunesis Construction Co., for the 2024 Kenwood Road Bridge Reconstruction for the unit prices as shown on the attached bid summary, and the selection of any alternates and contingencies deemed necessary by the City Manager and Public Works Director within the scope of the project.

SECTION II.

The Treasurer is hereby authorized to make the aforementioned expenditure, which funds are hereby appropriated.

SECTION III.

This resolution shall be in full force and take effect immediately upon its adoption.

PASSED this 14<sup>th</sup> day of March, 2024.

\_\_\_\_\_  
Jill Cole, Mayor

\_\_\_\_\_  
Jamie K. Eifert, Clerk of Council

APPROVED AS TO FORM:

\_\_\_\_\_  
Bryan E. Pacheco, Solicitor

2024 KENWOOD ROAD BRIDGE RECONSTRUCTION												
City of Blue Ash, Ohio												
BID OPENING: 02-29-2024												
BIDDER : SUNESIS CONSTRUCTION CO.												
PRUS CONSTRUCTION CO.												
JOHN R. JURGENSEN												
KT HOLDEN CONSTRUCTION												
PART B - BRIDGE AREA SITE WORK												
Item No.	Spec. No.	Item Description	Estimated Quantity	Unit of Measure	Unit Cost Total	Item Cost	Unit Cost Total2	Item Cost2	Unit Cost Total3	Item Cost3	Unit Cost Total4	Item Cost4
1	624	MOBILIZATION	1.00	LS	\$ 34,848.28	\$ 34,848.28	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	\$ 40,000.00	\$ 57,180.00	\$ 57,180.00
2	614	MAINTENANCE OF TRAFFIC	1.00	LS	\$ 9,077.00	\$ 9,077.00	\$ 110,000.00	\$ 110,000.00	\$ 6,096.10	\$ 6,096.10	\$ 20,000.00	\$ 20,000.00
3	201	CLEARING AND GRUBBING	1.00	LS	\$ 787.00	\$ 787.00	\$ 6,000.00	\$ 6,000.00	\$ 2,013.27	\$ 2,013.27	\$ 8,100.00	\$ 8,100.00
4	201	EROSION & SEDIMENT CONTROL	1.00	LS	\$ 1,910.00	\$ 1,910.00	\$ 7,500.00	\$ 7,500.00	\$ 3,016.36	\$ 3,016.36	\$ 5,000.00	\$ 5,000.00
5	606	MGS GUARD RAIL	300.00	LF	\$ 29.00	\$ 8,700.00	\$ 27.00	\$ 8,100.00	\$ 45.47	\$ 13,641.00	\$ 29.00	\$ 8,700.00
6	611	REPAIR EXISTING MANHOLE FRAME AND GRATE	2.00	EA	\$ 736.00	\$ 1,472.00	\$ 1,650.00	\$ 3,300.00	\$ 1,027.24	\$ 2,054.48	\$ 1,700.00	\$ 3,400.00
7	611	ADJUST MANHOLE TO GRADE	2.00	EA	\$ 294.00	\$ 588.00	\$ 1,150.00	\$ 2,300.00	\$ 756.87	\$ 1,513.74	\$ 700.00	\$ 1,400.00
8	606	MGS TYPE A ANCHOR	1.00	EA	\$ 2,477.00	\$ 2,477.00	\$ 1,750.00	\$ 1,750.00	\$ 2,450.00	\$ 2,450.00	\$ 2,450.00	\$ 2,450.00
9	606	MGS TYPE T ANCHOR	2.00	EA	\$ 2,199.00	\$ 4,398.00	\$ 1,525.00	\$ 3,050.00	\$ 2,175.00	\$ 4,350.00	\$ 2,175.00	\$ 4,350.00
10	606	MGS BRIDGE TERMINAL ASSEMBLY TYPE 2	4.00	EA	\$ 1,871.00	\$ 7,484.00	\$ 685.00	\$ 2,740.00	\$ 1,850.00	\$ 7,400.00	\$ 1,850.00	\$ 7,400.00
11	609	TYPE 2 CURB AND GUTTER	50.00	LF	\$ 70.00	\$ 3,500.00	\$ 65.00	\$ 3,250.00	\$ 81.50	\$ 4,075.00	\$ 49.00	\$ 2,450.00
12	401	FULL DEPTH ASPHALT PAVEMENT REMOVE AND REPLACE	1137.00	SF	\$ 30.00	\$ 34,110.00	\$ 27.75	\$ 31,551.75	\$ 27.52	\$ 31,290.24	\$ 30.00	\$ 34,110.00
SUBTOTAL PART A						\$ 109,351.28		\$ 219,541.75		\$ 117,900.19		\$ 154,540.00
PART B - KENWOOD ROAD BRIDGE												
Item No.	Spec. No.	Item Description	Estimated Quantity	Unit of Measure	Unit Cost Total	Item Cost	Unit Cost Total3	Item Cost3	Unit Cost Total2	Item Cost2	Unit Cost Total4	Item Cost4
13	202	PORTIONS OF STRUCTURE REMOVED, AS PER PLAN	1.00	LS	\$ 36,795.00	\$ 36,795.00	\$ 75,000.00	\$ 75,000.00	\$ 50,136.17	\$ 50,136.17	\$ 101,970.00	\$ 101,970.00
14	202	APPROACH SLAB REMOVED	178.00	SY	\$ 53.00	\$ 9,434.00	\$ 77.00	\$ 13,706.00	\$ 43.04	\$ 7,661.12	\$ 50.00	\$ 8,900.00
15	202	WEARING COURSE REMOVED	290.00	SY	\$ 10.00	\$ 2,900.00	\$ 15.00	\$ 4,350.00	\$ 4.31	\$ 1,249.90	\$ 30.00	\$ 8,700.00
16	SPECIAL	PIPE CLEANOUT, 24" AND UNDER	50.00	FT	\$ 31.00	\$ 1,550.00	\$ 90.00	\$ 4,500.00	\$ 44.34	\$ 2,217.00	\$ 125.00	\$ 6,250.00
17	503	UNCLASSIFIED EXCAVATION	71.00	CY	\$ 137.00	\$ 9,727.00	\$ 115.00	\$ 8,165.00	\$ 88.02	\$ 6,249.42	\$ 135.00	\$ 9,585.00
18	510	DOWEL HOLES WITH NONSHRINK, NONMETALLIC GROUT	164.00	EA	\$ 22.00	\$ 3,608.00	\$ 24.00	\$ 3,936.00	\$ 31.66	\$ 5,192.24	\$ 25.00	\$ 4,100.00
19	511	CLASS QC2 CONCRETE, SUPERSTRUCTURE, AS PER PLAN	72.00	CY	\$ 2,500.00	\$ 180,000.00	\$ 1,800.00	\$ 129,600.00	\$ 3,590.03	\$ 258,482.16	\$ 2,200.00	\$ 158,400.00
20	511	CLASS QC2 CONCRETE, BRIDGE DECK (PARAPET), AS PER PLAN	7.00	CY	\$ 3,052.00	\$ 21,364.00	\$ 3,300.00	\$ 23,100.00	\$ 1,644.85	\$ 11,513.95	\$ 3,800.00	\$ 26,600.00
21	511	CLASS QC1 CONCRETE, ABUTMENT NOT INCLUDING FOOTING, AS PER PLAN	16.00	CY	\$ 1,479.00	\$ 23,664.00	\$ 1,900.00	\$ 30,400.00	\$ 1,507.46	\$ 24,119.36	\$ 2,500.00	\$ 40,000.00
22	512	SEALING OF CONCRETE SURFACES (EPOXY-URETHANE), AS PER PLAN	350.00	SY	\$ 28.00	\$ 9,800.00	\$ 28.00	\$ 9,800.00	\$ 28.00	\$ 9,800.00	\$ 40.00	\$ 14,000.00
23	512	CONCRETE REPAIR BY EPOXY INJECTION	16.00	FT	\$ 25.00	\$ 400.00	\$ 115.00	\$ 1,840.00	\$ 183.38	\$ 2,934.08	\$ 350.00	\$ 5,600.00
24	512	TYPE 2 WATERPROOFING	50.00	SY	\$ 28.00	\$ 1,400.00	\$ 49.00	\$ 2,450.00	\$ 37.86	\$ 1,893.00	\$ 40.00	\$ 2,000.00
25	516	2" PREFORMED EXPANSION JOINT FILLER	35.00	SF	\$ 5.00	\$ 175.00	\$ 15.00	\$ 525.00	\$ 15.28	\$ 534.80	\$ 15.00	\$ 525.00
26	516	SEMI-INTEGRAL ABUTMENT EXPANSION JOINT SEAL	128.00	FT	\$ 57.00	\$ 7,296.00	\$ 54.00	\$ 6,912.00	\$ 44.92	\$ 5,749.76	\$ 60.00	\$ 7,680.00
27	516	ELASTOMERIC BEARING WITH INTERNAL LAMINATES ONLY (NEOPRENE) (6"x12"x1.45")	28.00	EA	\$ 174.00	\$ 4,872.00	\$ 315.00	\$ 8,820.00	\$ 255.61	\$ 7,157.08	\$ 200.00	\$ 5,600.00
28	518	POROUS BACKFILL WITH GEOTEXTILE FABRIC	32.00	CY	\$ 239.00	\$ 7,648.00	\$ 175.00	\$ 5,600.00	\$ 224.83	\$ 7,194.56	\$ 125.00	\$ 4,000.00
29	519	PATCHING CONCRETE STRUCTURE	656.00	SF	\$ 193.00	\$ 126,608.00	\$ 145.00	\$ 95,120.00	\$ 175.00	\$ 114,800.00	\$ 150.00	\$ 98,400.00
30	526	REINFORCED CONCRETE APPROACH SLABS (T=12"), AS PER PLAN	139.00	SY	\$ 464.00	\$ 64,496.00	\$ 545.00	\$ 75,755.00	\$ 555.54	\$ 77,220.06	\$ 565.00	\$ 78,535.00
31	526	TYPE A INSTALLATION	87.00	FT	\$ 229.00	\$ 19,923.00	\$ 250.00	\$ 21,750.00	\$ 258.73	\$ 22,509.51	\$ 225.00	\$ 19,575.00
SUBTOTAL PART B						\$ 531,660.00		\$ 521,329.00		\$ 616,614.17		\$ 600,420.00
PART C - PEDESTRIAN BRIDGE												
Item No.	Spec. No.	Item Description	Estimated Quantity	Unit of Measure	Unit Cost Total	Item Cost	Unit Cost Total3	Item Cost3	Unit Cost Total2	Item Cost2	Unit Cost Total4	Item Cost4
32	202	PORTIONS OF STRUCTURE REMOVED, AS PER PLAN	1	LS	\$ 10,896.00	\$ 10,896.00	\$ 22,000.00	\$ 22,000.00	\$ 23,070.59	\$ 23,070.59	\$ 50,530.00	\$ 50,530.00
33	503	UNCLASSIFIED EXCAVATION	20	CY	\$ 69.00	\$ 1,380.00	\$ 250.00	\$ 5,000.00	\$ 156.23	\$ 3,124.60	\$ 275.00	\$ 5,500.00
34	510	DOWEL HOLES WITH NONSHRINK, NONMETALLIC GROUT	68	EA	\$ 63.00	\$ 4,284.00	\$ 39.00	\$ 2,652.00	\$ 36.74	\$ 2,498.32	\$ 25.00	\$ 1,700.00
35	511	CLASS QC2 CONCRETE, SUPERSTRUCTURE, AS PER PLAN	22	CY	\$ 2,342.00	\$ 51,524.00	\$ 2,150.00	\$ 47,300.00	\$ 4,543.32	\$ 99,953.04	\$ 2,600.00	\$ 57,200.00
36	511	CLASS QC1 CONCRETE, ABUTMENT NOT INCLUDING FOOTING, AS PER PLAN	8	CY	\$ 3,109.00	\$ 24,872.00	\$ 2,450.00	\$ 19,600.00	\$ 1,707.09	\$ 13,656.72	\$ 3,400.00	\$ 27,200.00
37	512	SEALING OF CONCRETE SURFACES (EPOXY-URETHANE), AS PER PLAN	66	SY	\$ 28.00	\$ 1,848.00	\$ 40.00	\$ 2,640.00	\$ 28.00	\$ 1,848.00	\$ 40.00	\$ 2,640.00
38	512	TYPE 2 WATERPROOFING	15	SY	\$ 53.00	\$ 795.00	\$ 75.00	\$ 1,125.00	\$ 57.41	\$ 861.15	\$ 50.00	\$ 750.00
39	516	2" PREFORMED EXPANSION JOINT FILLER	40	SF	\$ 9.00	\$ 360.00	\$ 16.00	\$ 640.00	\$ 15.48	\$ 619.20	\$ 15.00	\$ 600.00
40	516	SEMI-INTEGRAL ABUTMENT EXPANSION JOINT SEAL	50	FT	\$ 43.00	\$ 2,150.00	\$ 60.00	\$ 3,000.00	\$ 45.24	\$ 2,262.00	\$ 60.00	\$ 3,000.00
41	516	ELASTOMERIC BEARING WITH INTERNAL LAMINATES ONLY (NEOPRENE) (6"x12"x1.45")	7	EA	\$ 163.00	\$ 1,141.00	\$ 365.00	\$ 2,555.00	\$ 255.61	\$ 1,789.27	\$ 200.00	\$ 1,400.00
42	516	JACKING AND TEMPORARY SUPPORT OF SUPERSTRUCTURE	1	LS	\$ 6,112.00	\$ 6,112.00	\$ 15,000.00	\$ 15,000.00	\$ 18,573.11	\$ 18,573.11	\$ 1.00	\$ 1.00
43	517	RAILING (TWIN STEEL TUBE), AS PER PLAN	127	FT	\$ 319.00	\$ 40,513.00	\$ 540.00	\$ 68,580.00	\$ 315.75	\$ 40,100.25	\$ 315.75	\$ 40,100.25
44	518	POROUS BACKFILL WITH GEOTEXTILE FABRIC	9	CY	\$ 173.00	\$ 1,557.00	\$ 245.00	\$ 2,205.00	\$ 260.33	\$ 2,342.97	\$ 125.00	\$ 1,125.00
SUBTOTAL PART C						\$ 147,432.00		\$ 192,297.00		\$ 210,699.22		\$ 191,746.25
<b>TOTAL</b>						<b>\$788,443.28</b>		<b>\$933,167.75</b>		<b>\$945,213.58</b>		<b>\$946,706.25</b>