



Ohio Revised Code

Section 718.80 Filing net profit taxes; election to be subject to provisions of chapter.

Effective: October 3, 2023

Legislation: House Bill 33

(A) A taxpayer may elect to be subject to sections 718.80 to 718.95 of the Revised Code in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

(1) The 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 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.

(B)(1) A taxpayer shall make the initial election on or before the fifteenth day of the fourth month after the beginning of the taxpayer's taxable year by providing to the tax commissioner a list of all municipal corporations in which the taxpayer conducted business during the previous taxable year, on a form prescribed by the tax commissioner.

(2) At least quarterly, the tax commissioner shall notify each municipal corporation that a taxpayer lists in its election under division (B)(1) of this section that the taxpayer has made the election.

(3)(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 tax commissioner of its termination of the election.

(b) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the fifteenth day of the fourth 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 this chapter.

(d) At least quarterly, the tax commissioner shall notify each municipal corporation reported on a taxpayer's most recent return or declaration filed with the commissioner of the taxpayer's termination of its election.

(4) The tax commissioner shall provide to all municipal corporations imposing a tax on income on or after January 1, 2018, a list of taxpayers that are subject to sections 718.80 to 718.95 of the Revised Code, including the taxpayers' names, addresses, and federal employee identification numbers. The list shall be made available via the portal created under section 718.841 of the Revised Code.

(C)(1)(a) On or before the thirty-first day of January each year, each municipal corporation imposing a tax on income shall certify to the tax commissioner the rate of the tax in effect on the first day of January of that year.

(b) If, after the thirty-first day of January of any year, a municipal corporation changes the rate of the municipal corporation's tax on income such that a new rate takes effect within that year, the municipal corporation shall certify to the tax commissioner the new rate of tax not less than sixty days before the effective date of the new rate, after which effective date the commissioner shall apply the new rate.

(2) A municipal corporation that receives a notification under division (B)(2) of this section shall submit to the tax commissioner, on a form prescribed by the commissioner and within the time prescribed by division (C)(3) of this section, the following information regarding the taxpayer and any member of an affiliated group of corporations included on the taxpayer's consolidated tax return, when applicable:

(a) The amount of any net operating loss that the taxpayer is entitled to carry forward to a future tax year;

(b) The amount of any net operating loss carryforward utilized by the taxpayer in prior years;

(c) Any credits granted by the municipal corporation to which the taxpayer is entitled, the amount of



such credits, whether the credits may be carried forward to future tax years, and, if the credits may be carried forward, the duration of any such carryforward;

(d) Any overpayments of tax that the taxpayer has elected to carry forward to a subsequent tax year;

(e) Any other information the municipal corporation deems relevant in order to effectuate the tax commissioner's efficient administration of the tax on the municipal corporation's behalf.

(3) A municipal corporation shall submit the information required under division (C)(2) of this section to the tax commissioner within ninety days after the taxpayer files its final return or within fifteen days after the end of the taxable year for which the taxpayer made the initial election under division (B)(1) of this section, whichever occurs first. For the purposes of this section, "final return" means the return filed with the municipal corporation for the taxable year immediately preceding the taxable year for which the taxpayer made the election under division (B)(1) of this section.

(4) If any municipal corporation fails to timely comply with division (C)(1), (2), or (3) of this section, the tax commissioner may notify the director of budget and management, who, upon receiving such notification, shall withhold a portion of each payment made to the municipal corporation under section 718.83 of the Revised Code. The commissioner shall specify the percentage of the payment to be withheld, not to exceed fifty per cent of the amount of the payment otherwise due to the municipal corporation under that section. The director shall compute the withholding on the basis of the tax rate most recently certified to the tax commissioner until the municipal corporation complies with divisions (C)(1), (2), and (3) of this section.

If, after any such withholding, the municipal corporation complies with divisions (C)(1), (2), and (3) of this section, the tax commissioner shall notify the director of budget and management, who shall provide payment to the municipal corporation under section 718.83 of the Revised Code of such amounts withheld under this division.

(D) The tax commissioner shall enforce and administer sections 718.80 to 718.95 of the Revised Code. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:



- (1) Prescribe all forms necessary to administer those sections;
 - (2) Adopt such rules as the tax commissioner finds necessary to carry out those sections;
 - (3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.
- (E) No tax administrator shall utilize sections 718.81 to 718.95 of the Revised Code in the administrator's administration of a municipal income tax, and those sections shall not be applied to any taxpayer that has not made the election under this section.
- (F) Nothing in this chapter shall be construed to make any section of this chapter, other than sections 718.01 and 718.80 to 718.95 of the Revised Code, applicable to the tax commissioner's administration of a municipal income tax or to any taxpayer that has made the election under this section.
- (G) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code.