



Ohio Revised Code

Section 718.821 Alternative net profits apportionment for remote employees.

Effective: October 3, 2023

Legislation: House Bill 33 - 135th General Assembly

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

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

A taxpayer shall make the election allowed under this section by notifying the tax commissioner 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. After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business.

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

(C) For the purpose of calculating the ratios described in division (A) of section 718.82 of the Revised Code, all of the following apply to a taxpayer that has made the election described in division (B) of this section:

(1) For the purpose of division (A)(1) of section 718.82 of the Revised Code, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(2) For the purpose of division (A)(2) of section 718.82 of the Revised Code, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that



individual's qualifying reporting location.

(3) For the purpose of division (A)(3) of section 718.82 of the Revised Code, and notwithstanding division (D) of that section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situated to that individual's qualifying reporting location.

(D) Nothing in this section prevents a taxpayer from requesting, or the tax commissioner from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (B) of section 718.82 of the Revised Code. However, the commissioner shall not require an alternative apportionment method in such a manner that it would cause a taxpayer to incur tax liability in a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(E) Except as otherwise provided in this section, nothing in this section is intended to affect the withholding of taxes on qualifying wages pursuant to sections 718.011 and 718.03 of the Revised Code.