



Ohio Revised Code

Section 718.03 Withholding taxes from qualifying wages.

Effective: September 14, 2016

Legislation: Senate Bill 172 - 131st General Assembly

(A)(1) Each employer, agent of an employer, or other payer located or doing business in a municipal corporation that imposes a tax on income in accordance with this chapter shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the municipal corporation multiplied by the applicable rate of the municipal corporation's income tax, except for qualifying wages for which withholding is not required under section 718.011 of the Revised Code or division (D) or (F) 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) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the tax administrator of a municipal corporation 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 according to the following schedule:

(a) 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 municipal corporation in any month of the preceding calendar quarter exceeded two hundred dollars. Payments under division (B)(1)(a) of this section shall be made to the tax administrator not later than fifteen days after the last day of each month.



(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) 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.

(2) Notwithstanding division (B)(1) of this section, a municipal corporation may require, by resolution, ordinance, or rule, an employer, agent of an employer, or other payer to do any of the following:

(a) Remit taxes deducted and withheld semimonthly to the tax administrator if the total taxes deducted and withheld or required to be deducted and withheld on behalf of the municipal corporation in the preceding calendar year exceeded eleven thousand nine 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 municipal corporation in any month of the preceding calendar year exceeded one thousand dollars. The payment under division (B)(2)(a) of this section shall be made to the tax administrator not later than one of the following:

(i) If the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month;

(ii) If the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of that month.

(b) Make payment by electronic funds transfer to the tax administrator of all taxes deducted and withheld on behalf of the municipal corporation if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

(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. Unless the tax administrator requires all individual taxpayers to file a tax return under section 718.05 of the Revised Code, a return filed by an employer, agent, or other payer under this division shall be accepted by a tax administrator and municipal corporation 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.

(D) 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.

(E)(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 municipal corporation 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.

(F) 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.

(G) 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 municipal corporation until such time as the withheld amount is remitted to the tax administrator.

(H) 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 municipal corporation during the preceding calendar year, the amount of tax withheld, if any, from each such employee, 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.

(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.