

**As Introduced**

**135th General Assembly  
Regular Session  
2023-2024**

**H. B. No. 126**

**Representatives Mathews, Miller, A.**

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**A BILL**

To amend section 718.01 of the Revised Code to 1  
expand a municipal income tax exemption for 2  
military pay. 3

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 718.01 of the Revised Code be 4  
amended to read as follows: 5

**Sec. 718.01.** Any term used in this chapter that is not 6  
otherwise defined in this chapter has the same meaning as when 7  
used in a comparable context in laws of the United States 8  
relating to federal income taxation or in Title LVII of the 9  
Revised Code, unless a different meaning is clearly required. 10  
Except as provided in section 718.81 of the Revised Code, if a 11  
term used in this chapter that is not otherwise defined in this 12  
chapter is used in a comparable context in both the laws of the 13  
United States relating to federal income tax and in Title LVII 14  
of the Revised Code and the use is not consistent, then the use 15  
of the term in the laws of the United States relating to federal 16  
income tax shall control over the use of the term in Title LVII 17  
of the Revised Code. 18

Except as otherwise provided in section 718.81 of the 19

Revised Code, as used in this chapter:	20
(A) (1) "Municipal taxable income" means the following:	21
(a) For a person other than an individual, income	22
apportioned or situated to the municipal corporation under	23
section 718.02 of the Revised Code, as applicable, reduced by	24
any pre-2017 net operating loss carryforward available to the	25
person for the municipal corporation.	26
(b) (i) For an individual who is a resident of a municipal	27
corporation other than a qualified municipal corporation, income	28
reduced by exempt income to the extent otherwise included in	29
income, then reduced as provided in division (A) (2) of this	30
section, and further reduced by any pre-2017 net operating loss	31
carryforward available to the individual for the municipal	32
corporation.	33
(ii) For an individual who is a resident of a qualified	34
municipal corporation, Ohio adjusted gross income reduced by	35
income exempted, and increased by deductions excluded, by the	36
qualified municipal corporation from the qualified municipal	37
corporation's tax. If a qualified municipal corporation, on or	38
before December 31, 2013, exempts income earned by individuals	39
who are not residents of the qualified municipal corporation and	40
net profit of persons that are not wholly located within the	41
qualified municipal corporation, such individual or person shall	42
have no municipal taxable income for the purposes of the tax	43
levied by the qualified municipal corporation and may be	44
exempted by the qualified municipal corporation from the	45
requirements of section 718.03 of the Revised Code.	46
(c) For an individual who is a nonresident of a municipal	47
corporation, income reduced by exempt income to the extent	48

otherwise included in income and then, as applicable, 49  
apportioned or situated to the municipal corporation under 50  
section 718.02 of the Revised Code, then reduced as provided in 51  
division (A) (2) of this section, and further reduced by any pre- 52  
2017 net operating loss carryforward available to the individual 53  
for the municipal corporation. 54

(2) In computing the municipal taxable income of a 55  
taxpayer who is an individual, the taxpayer may subtract, as 56  
provided in division (A) (1) (b) (i) or (c) of this section, the 57  
amount of the individual's employee business expenses reported 58  
on the individual's form 2106 that the individual deducted for 59  
federal income tax purposes for the taxable year, subject to the 60  
limitation imposed by section 67 of the Internal Revenue Code. 61  
For the municipal corporation in which the taxpayer is a 62  
resident, the taxpayer may deduct all such expenses allowed for 63  
federal income tax purposes. For a municipal corporation in 64  
which the taxpayer is not a resident, the taxpayer may deduct 65  
such expenses only to the extent the expenses are related to the 66  
taxpayer's performance of personal services in that nonresident 67  
municipal corporation. 68

(B) "Income" means the following: 69

(1) (a) For residents, all income, salaries, qualifying 70  
wages, commissions, and other compensation from whatever source 71  
earned or received by the resident, including the resident's 72  
distributive share of the net profit of pass-through entities 73  
owned directly or indirectly by the resident and any net profit 74  
of the resident, except as provided in division (D) (5) of this 75  
section. 76

(b) For the purposes of division (B) (1) (a) of this 77  
section: 78

(i) 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 (B) (1) (d) of this section;

(ii) 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.

(c) Division (B) (1) (b) 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 (C) (14) (b) or (c) of this section.

(d) 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.

(2) In the case of nonresidents, all income, salaries,

qualifying wages, commissions, and other compensation from 109  
whatever source earned or received by the nonresident for work 110  
done, services performed or rendered, or activities conducted in 111  
the municipal corporation, including any net profit of the 112  
nonresident, but excluding the nonresident's distributive share 113  
of the net profit or loss of only pass-through entities owned 114  
directly or indirectly by the nonresident. 115

(3) For taxpayers that are not individuals, net profit of 116  
the taxpayer; 117

(4) Lottery, sweepstakes, gambling and sports winnings, 118  
winnings from games of chance, and prizes and awards. If the 119  
taxpayer is a professional gambler for federal income tax 120  
purposes, the taxpayer may deduct related wagering losses and 121  
expenses to the extent authorized under the Internal Revenue 122  
Code and claimed against such winnings. 123

(C) "Exempt income" means all of the following: 124

(1) The military pay or allowances of members of the ~~armed-~~ 125  
~~forces-uniformed services~~ of the United States or members of 126  
their reserve components, including the national guard of any 127  
state; As used in division (C) (1) of this section, "uniformed 128  
services" has the same meaning as in 10 U.S.C. 101. 129

(2) (a) Except as provided in division (C) (2) (b) of this 130  
section, intangible income; 131

(b) A municipal corporation that taxed any type of 132  
intangible income on March 29, 1988, pursuant to Section 3 of 133  
S.B. 238 of the 116th general assembly, may continue to tax that 134  
type of income if a majority of the electors of the municipal 135  
corporation voting on the question of whether to permit the 136  
taxation of that type of intangible income after 1988 voted in 137

favor thereof at an election held on November 8, 1988.	138
(3) Social security benefits, railroad retirement	139
benefits, unemployment compensation, pensions, retirement	140
benefit payments, payments from annuities, and similar payments	141
made to an employee or to the beneficiary of an employee under a	142
retirement program or plan, disability payments received from	143
private industry or local, state, or federal governments or from	144
charitable, religious or educational organizations, and the	145
proceeds of sickness, accident, or liability insurance policies.	146
As used in division (C) (3) of this section, "unemployment	147
compensation" does not include supplemental unemployment	148
compensation described in section 3402(o) (2) of the Internal	149
Revenue Code.	150
(4) The income of religious, fraternal, charitable,	151
scientific, literary, or educational institutions to the extent	152
such income is derived from tax-exempt real estate, tax-exempt	153
tangible or intangible property, or tax-exempt activities.	154
(5) Compensation paid under section 3501.28 or 3501.36 of	155
the Revised Code to a person serving as a precinct election	156
official to the extent that such compensation does not exceed	157
one thousand dollars for the taxable year. Such compensation in	158
excess of one thousand dollars for the taxable year may be	159
subject to taxation by a municipal corporation. A municipal	160
corporation shall not require the payer of such compensation to	161
withhold any tax from that compensation.	162
(6) Dues, contributions, and similar payments received by	163
charitable, religious, educational, or literary organizations or	164
labor unions, lodges, and similar organizations;	165
(7) Alimony and child support received;	166

(8) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages;	167 168 169 170
(9) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code. Division (C) (9) of this section does not apply for purposes of Chapter 5745. of the Revised Code.	171 172 173 174
(10) 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;	175 176 177 178 179 180
(11) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;	181 182
(12) Employee compensation that is not qualifying wages as defined in division (R) of this section;	183 184
(13) 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.	185 186 187 188 189 190 191 192 193
(14) (a) Except as provided in division (C) (14) (b) or (c) of this section, an S corporation shareholder's distributive	194 195

share of net profits of the S corporation, other than any part 196  
of the distributive share of net profits that represents wages 197  
as defined in section 3121(a) of the Internal Revenue Code or 198  
net earnings from self-employment as defined in section 1402(a) 199  
of the Internal Revenue Code. 200

(b) If, pursuant to division (H) of former section 718.01 201  
of the Revised Code as it existed before March 11, 2004, a 202  
majority of the electors of a municipal corporation voted in 203  
favor of the question at an election held on November 4, 2003, 204  
the municipal corporation may continue after 2002 to tax an S 205  
corporation shareholder's distributive share of net profits of 206  
an S corporation. 207

(c) If, on December 6, 2002, a municipal corporation was 208  
imposing, assessing, and collecting a tax on an S corporation 209  
shareholder's distributive share of net profits of the S 210  
corporation to the extent the distributive share would be 211  
allocated or apportioned to this state under divisions (B)(1) 212  
and (2) of section 5733.05 of the Revised Code if the S 213  
corporation were a corporation subject to taxes imposed under 214  
Chapter 5733. of the Revised Code, the municipal corporation may 215  
continue to impose the tax on such distributive shares to the 216  
extent such shares would be so allocated or apportioned to this 217  
state only until December 31, 2004, unless a majority of the 218  
electors of the municipal corporation voting on the question of 219  
continuing to tax such shares after that date voted in favor of 220  
that question at an election held November 2, 2004. If a 221  
majority of those electors voted in favor of the question, the 222  
municipal corporation may continue after December 31, 2004, to 223  
impose the tax on such distributive shares only to the extent 224  
such shares would be so allocated or apportioned to this state. 225



(d) A municipal corporation shall be deemed to have 226  
elected to tax S corporation shareholders' distributive shares 227  
of net profits of the S corporation in the hands of the 228  
shareholders if a majority of the electors of a municipal 229  
corporation voted in favor of a question at an election held 230  
under division (C) (14) (b) or (c) of this section. The municipal 231  
corporation shall specify by resolution or ordinance that the 232  
tax applies to the distributive share of a shareholder of an S 233  
corporation in the hands of the shareholder of the S 234  
corporation. 235

(15) To the extent authorized under a resolution or 236  
ordinance adopted by a municipal corporation before January 1, 237  
2016, all or a portion of the income of individuals or a class 238  
of individuals under eighteen years of age. 239

(16) (a) Except as provided in divisions (C) (16) (b), (c), 240  
and (d) of this section, qualifying wages described in division 241  
(B) (1) or (E) of section 718.011 of the Revised Code to the 242  
extent the qualifying wages are not subject to withholding for 243  
the municipal corporation under either of those divisions. 244

(b) The exemption provided in division (C) (16) (a) of this 245  
section does not apply with respect to the municipal corporation 246  
in which the employee resided at the time the employee earned 247  
the qualifying wages. 248

(c) The exemption provided in division (C) (16) (a) of this 249  
section does not apply to qualifying wages that an employer 250  
elects to withhold under division (D) (2) of section 718.011 of 251  
the Revised Code. 252

(d) The exemption provided in division (C) (16) (a) of this 253  
section does not apply to qualifying wages if both of the 254

following conditions apply:	255
(i) For qualifying wages described in division (B) (1) of section 718.011 of the Revised Code, 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 718.011 of the Revised Code, 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;	256 257 258 259 260 261 262 263 264
(ii) The employee receives a refund of the tax described in division (C) (16) (d) (i) of this section on the basis of the employee not performing services in that municipal corporation.	265 266 267
(17) (a) Except as provided in division (C) (17) (b) or (c) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipal corporation on not more than twenty days in a taxable year.	268 269 270 271 272
(b) The exemption provided in division (C) (17) (a) of this section does not apply under either of the following circumstances:	273 274 275
(i) The individual's base of operation is located in the municipal corporation.	276 277
(ii) 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 (C) (17) (b) (ii) of this section, "professional athlete," "professional entertainer," and	278 279 280 281 282 283

"public figure" have the same meanings as in section 718.011 of 284  
the Revised Code. 285

(c) Compensation to which division (C) (17) of this section 286  
applies shall be treated as earned or received at the 287  
individual's base of operation. If the individual does not have 288  
a base of operation, the compensation shall be treated as earned 289  
or received where the individual is domiciled. 290

(d) For purposes of division (C) (17) of this section, 291  
"base of operation" means the location where an individual owns 292  
or rents an office, storefront, or similar facility to which the 293  
individual regularly reports and at which the individual 294  
regularly performs personal services for compensation. 295

(18) Compensation paid to a person for personal services 296  
performed for a political subdivision on property owned by the 297  
political subdivision, regardless of whether the compensation is 298  
received by an employee of the subdivision or another person 299  
performing services for the subdivision under a contract with 300  
the subdivision, if the property on which services are performed 301  
is annexed to a municipal corporation pursuant to section 302  
709.023 of the Revised Code on or after March 27, 2013, unless 303  
the person is subject to such taxation because of residence. If 304  
the compensation is subject to taxation because of residence, 305  
municipal income tax shall be payable only to the municipal 306  
corporation of residence. 307

(19) In the case of a tax administered, collected, and 308  
enforced by a municipal corporation pursuant to an agreement 309  
with the board of directors of a joint economic development 310  
district under section 715.72 of the Revised Code, the net 311  
profits of a business, and the income of the employees of that 312  
business, exempted from the tax under division (Q) of that 313

section.	314
(20) All of the following:	315
(a) Income derived from disaster work conducted in this state by an out-of-state disaster business during a disaster response period pursuant to a qualifying solicitation received by the business;	316 317 318 319
(b) Income of a qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code, to the extent such income is derived from disaster work conducted in this state by the employee during a disaster response period pursuant to a qualifying solicitation received by the employee's employer;	320 321 322 323 324 325
(c) Income of a qualifying employee described in division (A) (14) (b) of section 5703.94 of the Revised Code, to the extent such income is derived from disaster work conducted in this state by the employee during a disaster response period on critical infrastructure owned or used by the employee's employer.	326 327 328 329 330 331
(21) Income the taxation of which is prohibited by the constitution or laws of the United States.	332 333
Any item of income that is exempt income of a pass-through entity under division (C) 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.	334 335 336 337 338
(D) (1) "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 division (D)	339 340 341 342

(1) of this section, the net operating loss carried forward 343  
shall be calculated and deducted in the same manner as provided 344  
in division (D) (3) of this section. 345

(2) "Net profit" for a person other than an individual 346  
means adjusted federal taxable income reduced by any net 347  
operating loss incurred by the person in a taxable year 348  
beginning on or after January 1, 2017, subject to the 349  
limitations of division (D) (3) of this section. 350

(3) (a) The amount of such net operating loss shall be 351  
deducted from net profit to the extent necessary to reduce 352  
municipal taxable income to zero, with any remaining unused 353  
portion of the net operating loss carried forward to not more 354  
than five consecutive taxable years following the taxable year 355  
in which the loss was incurred, but in no case for more years 356  
than necessary for the deduction to be fully utilized. 357

(b) No person shall use the deduction allowed by division 358  
(D) (3) of this section to offset qualifying wages. 359

(c) (i) For taxable years beginning in 2018, 2019, 2020, 360  
2021, or 2022, a person may not deduct, for purposes of an 361  
income tax levied by a municipal corporation that levies an 362  
income tax before January 1, 2016, more than fifty per cent of 363  
the amount of the deduction otherwise allowed by division (D) (3) 364  
of this section. 365

(ii) For taxable years beginning in 2023 or thereafter, a 366  
person may deduct, for purposes of an income tax levied by a 367  
municipal corporation that levies an income tax before January 368  
1, 2016, the full amount allowed by division (D) (3) of this 369  
section without regard to the limitation of division (D) (3) (b) 370  
(i) of this section. 371

(d) Any pre-2017 net operating loss carryforward deduction 372  
that is available may be utilized before a taxpayer may deduct 373  
any amount pursuant to division (D) (3) of this section. 374

(e) Nothing in division (D) (3) (c) (i) of this section 375  
precludes a person from carrying forward, for use with respect 376  
to any return filed for a taxable year beginning after 2018, any 377  
amount of net operating loss that was not fully utilized by 378  
operation of division (D) (3) (c) (i) of this section. To the 379  
extent that an amount of net operating loss that was not fully 380  
utilized in one or more taxable years by operation of division 381  
(D) (3) (c) (i) of this section is carried forward for use with 382  
respect to a return filed for a taxable year beginning in 2019, 383  
2020, 2021, or 2022, the limitation described in division (D) (3) 384  
(c) (i) of this section shall apply to the amount carried 385  
forward. 386

(4) For the purposes of this chapter, and notwithstanding 387  
division (D) (2) of this section, net profit of a disregarded 388  
entity shall not be taxable as against that disregarded entity, 389  
but shall instead be included in the net profit of the owner of 390  
the disregarded entity. 391

(5) For the purposes of this chapter, and notwithstanding 392  
any other provision of this chapter, the net profit of a 393  
publicly traded partnership that makes the election described in 394  
division (D) (5) of this section shall be taxed as if the 395  
partnership were a C corporation, and shall not be treated as 396  
the net profit or income of any owner of the partnership. 397

A publicly traded partnership that is treated as a 398  
partnership for federal income tax purposes and that is subject 399  
to tax on its net profits in one or more municipal corporations 400  
in this state may elect to be treated as a C corporation for 401

municipal income tax purposes. The publicly traded partnership 402  
shall make the election in every municipal corporation in which 403  
the partnership is subject to taxation on its net profits. The 404  
election shall be made on the annual tax return filed in each 405  
such municipal corporation. The publicly traded partnership 406  
shall not be required to file the election with any municipal 407  
corporation in which the partnership is not subject to taxation 408  
on its net profits, but division (D)(5) of this section applies 409  
to all municipal corporations in which an individual owner of 410  
the partnership resides. 411

(E) "Adjusted federal taxable income," for a person 412  
required to file as a C corporation, or for a person that has 413  
elected to be taxed as a C corporation under division (D)(5) of 414  
this section, means a C corporation's federal taxable income 415  
before net operating losses and special deductions as determined 416  
under the Internal Revenue Code, adjusted as follows: 417

(1) Deduct intangible income to the extent included in 418  
federal taxable income. The deduction shall be allowed 419  
regardless of whether the intangible income relates to assets 420  
used in a trade or business or assets held for the production of 421  
income. 422

(2) Add an amount equal to five per cent of intangible 423  
income deducted under division (E)(1) of this section, but 424  
excluding that portion of intangible income directly related to 425  
the sale, exchange, or other disposition of property described 426  
in section 1221 of the Internal Revenue Code; 427

(3) Add any losses allowed as a deduction in the 428  
computation of federal taxable income if the losses directly 429  
relate to the sale, exchange, or other disposition of an asset 430  
described in section 1221 or 1231 of the Internal Revenue Code; 431

(4) (a) Except as provided in division (E) (4) (b) 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;

(b) Division (E) (4) (a) 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.

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

(6) 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;

(7) 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 Revised Code;

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

(9) 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 718.06 of the Revised Code.

(10) Add any loss incurred by a pass-through entity owned



directly or indirectly by the taxpayer and included in the 461  
taxpayer's federal taxable income unless an affiliated group of 462  
corporations includes that loss in the group's federal taxable 463  
income in accordance with division (E) (3) (b) of section 718.06 464  
of the Revised Code. 465

If the taxpayer is not a C corporation, is not a 466  
disregarded entity that has made the election described in 467  
division (L) (2) of this section, is not a publicly traded 468  
partnership that has made the election described in division (D) 469  
(5) of this section, and is not an individual, the taxpayer 470  
shall compute adjusted federal taxable income under this section 471  
as if the taxpayer were a C corporation, except guaranteed 472  
payments and other similar amounts paid or accrued to a partner, 473  
former partner, shareholder, former shareholder, member, or 474  
former member shall not be allowed as a deductible expense 475  
unless such payments are a pension or retirement benefit payment 476  
paid to a retired partner, retired shareholder, or retired 477  
member or are in consideration for the use of capital and 478  
treated as payment of interest under section 469 of the Internal 479  
Revenue Code or United States treasury regulations. Amounts paid 480  
or accrued to a qualified self-employed retirement plan with 481  
respect to a partner, former partner, shareholder, former 482  
shareholder, member, or former member of the taxpayer, amounts 483  
paid or accrued to or for health insurance for a partner, former 484  
partner, shareholder, former shareholder, member, or former 485  
member, and amounts paid or accrued to or for life insurance for 486  
a partner, former partner, shareholder, former shareholder, 487  
member, or former member shall not be allowed as a deduction. 488

Nothing in division (E) of this section shall be construed 489  
as allowing the taxpayer to add or deduct any amount more than 490  
once or shall be construed as allowing any taxpayer to deduct 491

any amount paid to or accrued for purposes of federal self-	492
employment tax.	493
(F) "Schedule C" means internal revenue service schedule C	494
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	495
Code.	496
(G) "Schedule E" means internal revenue service schedule E	497
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	498
Code.	499
(H) "Schedule F" means internal revenue service schedule F	500
(form 1040) filed by a taxpayer pursuant to the Internal Revenue	501
Code.	502
(I) "Internal Revenue Code" has the same meaning as in	503
section 5747.01 of the Revised Code.	504
(J) "Resident" means an individual who is domiciled in the	505
municipal corporation as determined under section 718.012 of the	506
Revised Code.	507
(K) "Nonresident" means an individual that is not a	508
resident.	509
(L) (1) "Taxpayer" means a person subject to a tax levied	510
on income by a municipal corporation in accordance with this	511
chapter. "Taxpayer" does not include a grantor trust or, except	512
as provided in division (L) (2) (a) of this section, a disregarded	513
entity.	514
(2) (a) A single member limited liability company that is a	515
disregarded entity for federal tax purposes may be a separate	516
taxpayer from its single member in all Ohio municipal	517
corporations in which it either filed as a separate taxpayer or	518
did not file for its taxable year ending in 2003, if all of the	519

following conditions are met: 520

(i) The limited liability company's single member is also 521  
a limited liability company. 522

(ii) The limited liability company and its single member 523  
were formed and doing business in one or more Ohio municipal 524  
corporations for at least five years before January 1, 2004. 525

(iii) Not later than December 31, 2004, the limited 526  
liability company and its single member each made an election to 527  
be treated as a separate taxpayer under division (L) of this 528  
section as this section existed on December 31, 2004. 529

(iv) The limited liability company was not formed for the 530  
purpose of evading or reducing Ohio municipal corporation income 531  
tax liability of the limited liability company or its single 532  
member. 533

(v) The Ohio municipal corporation that was the primary 534  
place of business of the sole member of the limited liability 535  
company consented to the election. 536

(b) For purposes of division (L) (2) (a) (v) of this section, 537  
a municipal corporation was the primary place of business of a 538  
limited liability company if, for the limited liability 539  
company's taxable year ending in 2003, its income tax liability 540  
was greater in that municipal corporation than in any other 541  
municipal corporation in Ohio, and that tax liability to that 542  
municipal corporation for its taxable year ending in 2003 was at 543  
least four hundred thousand dollars. 544

(M) "Person" includes individuals, firms, companies, joint 545  
stock companies, business trusts, estates, trusts, partnerships, 546  
limited liability partnerships, limited liability companies, 547  
associations, C corporations, S corporations, governmental 548

entities, and any other entity. 549

(N) "Pass-through entity" means a partnership not treated 550  
as an association taxable as a C corporation for federal income 551  
tax purposes, a limited liability company not treated as an 552  
association taxable as a C corporation for federal income tax 553  
purposes, an S corporation, or any other class of entity from 554  
which the income or profits of the entity are given pass-through 555  
treatment for federal income tax purposes. "Pass-through entity" 556  
does not include a trust, estate, grantor of a grantor trust, or 557  
disregarded entity. 558

(O) "S corporation" means a person that has made an 559  
election under subchapter S of Chapter 1 of Subtitle A of the 560  
Internal Revenue Code for its taxable year. 561

(P) "Single member limited liability company" means a 562  
limited liability company that has one direct member. 563

(Q) "Limited liability company" means a limited liability 564  
company formed under former Chapter 1705.~~or of the Revised~~ 565  
Code as that chapter existed prior to February 11, 2022, Chapter 566  
1706. of the Revised Code, or ~~under~~ the laws of another state. 567

(R) "Qualifying wages" means wages, as defined in section 568  
3121(a) of the Internal Revenue Code, without regard to any wage 569  
limitations, adjusted as follows: 570

(1) Deduct the following amounts: 571

(a) Any amount included in wages if the amount constitutes 572  
compensation attributable to a plan or program described in 573  
section 125 of the Internal Revenue Code. 574

(b) Any amount included in wages if the amount constitutes 575  
payment on account of a disability related to sickness or an 576

accident paid by a party unrelated to the employer, agent of an employer, or other payer.	577 578
(c) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v) (2) (C) of the Internal Revenue Code if the compensation is included in wages and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.	579 580 581 582 583 584
(d) Any amount included in wages if 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 and the municipal corporation has, by resolution or ordinance adopted before January 1, 2016, exempted the amount from withholding and tax.	585 586 587 588 589 590 591
(e) Any amount included in wages that is exempt income.	592
(2) Add the following amounts:	593
(a) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.	594 595
(b) 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 and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (R) (2) (b) of this section applies only to those amounts constituting ordinary income.	596 597 598 599 600 601 602 603
(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the	604 605

Internal Revenue Code. Division (R) (2) (c) of this section 606  
applies only to employee contributions and employee deferrals. 607

(d) Any amount that is supplemental unemployment 608  
compensation benefits described in section 3402(o) (2) of the 609  
Internal Revenue Code and not included in wages. 610

(e) Any amount received that is treated as self-employment 611  
income for federal tax purposes in accordance with section 612  
1402(a) (8) of the Internal Revenue Code. 613

(f) Any amount not included in wages if all of the 614  
following apply: 615

(i) For the taxable year the amount is employee 616  
compensation that is earned outside of the United States and 617  
that either is included in the taxpayer's gross income for 618  
federal income tax purposes or would have been included in the 619  
taxpayer's gross income for such purposes if the taxpayer did 620  
not elect to exclude the income under section 911 of the 621  
Internal Revenue Code; 622

(ii) For no preceding taxable year did the amount 623  
constitute wages as defined in section 3121(a) of the Internal 624  
Revenue Code; 625

(iii) For no succeeding taxable year will the amount 626  
constitute wages; and 627

(iv) For any taxable year the amount has not otherwise 628  
been added to wages pursuant to either division (R) (2) of this 629  
section or section 718.03 of the Revised Code, as that section 630  
existed before the effective date of H.B. 5 of the 130th general 631  
assembly, March 23, 2015. 632

(S) "Intangible income" means income of any of the 633

following types: income yield, interest, capital gains, 634  
dividends, or other income arising from the ownership, sale, 635  
exchange, or other disposition of intangible property including, 636  
but not limited to, investments, deposits, money, or credits as 637  
those terms are defined in Chapter 5701. of the Revised Code, 638  
and patents, copyrights, trademarks, tradenames, investments in 639  
real estate investment trusts, investments in regulated 640  
investment companies, and appreciation on deferred compensation. 641  
"Intangible income" does not include prizes, awards, or other 642  
income associated with any lottery winnings, gambling winnings, 643  
or other similar games of chance. 644

(T) "Taxable year" means the corresponding tax reporting 645  
period as prescribed for the taxpayer under the Internal Revenue 646  
Code. 647

(U) (1) "Tax administrator" means, subject to division (U) 648  
(2) of this section, the individual charged with direct 649  
responsibility for administration of an income tax levied by a 650  
municipal corporation in accordance with this chapter, and also 651  
includes the following: 652

(a) A municipal corporation acting as the agent of another 653  
municipal corporation; 654

(b) A person retained by a municipal corporation to 655  
administer a tax levied by the municipal corporation, but only 656  
if the municipal corporation does not compensate the person in 657  
whole or in part on a contingency basis; 658

(c) The central collection agency or the regional income 659  
tax agency or their successors in interest, or another entity 660  
organized to perform functions similar to those performed by the 661  
central collection agency and the regional income tax agency. 662

(2) "Tax administrator" does not include the tax commissioner. 663  
664

(3) A private individual or entity serving in any position described in division (U) (1) (b) or (c) of this section shall have no access to criminal history record information. 665  
666  
667

(V) "Employer" means a person that is an employer for federal income tax purposes. 668  
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(W) "Employee" means an individual who is an employee for federal income tax purposes. 670  
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(X) "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. 672  
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(Y) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December. 677  
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(Z) "Form 2106" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. 679  
680

(AA) "Municipal corporation" 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 715.72 of the Revised Code. 681  
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(BB) "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. 685  
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687  
688

(CC) "Generic form" means an electronic or paper form that is not prescribed by a particular municipal corporation and that 689  
690



is designed for reporting taxes withheld by an employer, agent 691  
of an employer, or other payer, estimated municipal income 692  
taxes, or annual municipal income tax liability or for filing a 693  
refund claim. 694

(DD) "Tax return preparer" means any individual described 695  
in section 7701(a)(36) of the Internal Revenue Code and 26 696  
C.F.R. 301.7701-15. 697

(EE) "Ohio business gateway" means the online computer 698  
network system, created under section 125.30 of the Revised 699  
Code, that allows persons to electronically file business reply 700  
forms with state agencies and includes any successor electronic 701  
filing and payment system. 702

(FF) "Local board of tax review" and "board of tax review" 703  
mean the entity created under section 718.11 of the Revised 704  
Code. 705

(GG) "Net operating loss" means a loss incurred by a 706  
person in the operation of a trade or business. "Net operating 707  
loss" does not include unutilized losses resulting from basis 708  
limitations, at-risk limitations, or passive activity loss 709  
limitations. 710

(HH) "Casino operator" and "casino facility" have the same 711  
meanings as in section 3772.01 of the Revised Code. 712

(II) "Video lottery terminal" has the same meaning as in 713  
section 3770.21 of the Revised Code. 714

(JJ) "Video lottery terminal sales agent" means a lottery 715  
sales agent licensed under Chapter 3770. of the Revised Code to 716  
conduct video lottery terminals on behalf of the state pursuant 717  
to section 3770.21 of the Revised Code. 718

(KK) "Postal service" means the United States postal service.	719 720
(LL) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to section 5703.056 of the Revised Code.	721 722 723 724
(MM) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B) (3) of section 5703.056 of the Revised Code.	725 726 727 728
(NN) "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.	729 730 731 732 733 734 735 736 737 738
(OO) "Related entity" means any of the following:	739
(1) 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;	740 741 742 743 744 745
(2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's	746 747

partnerships, estates, trusts, or corporations own directly, 748  
indirectly, beneficially, or constructively, in the aggregate, 749  
at least fifty per cent of the value of the taxpayer's 750  
outstanding stock; 751

(3) A corporation, or a party related to the corporation 752  
in a manner that would require an attribution of stock from the 753  
corporation to the party or from the party to the corporation 754  
under division (00) (4) of this section, provided the taxpayer 755  
owns directly, indirectly, beneficially, or constructively, at 756  
least fifty per cent of the value of the corporation's 757  
outstanding stock; 758

(4) The attribution rules described in section 318 of the 759  
Internal Revenue Code apply for the purpose of determining 760  
whether the ownership requirements in divisions (00) (1) to (3) 761  
of this section have been met. 762

(PP) (1) "Assessment" means a written finding by the tax 763  
administrator that a person has underpaid municipal income tax, 764  
or owes penalty and interest, or any combination of tax, 765  
penalty, or interest, to the municipal corporation that 766  
commences the person's time limitation for making an appeal to 767  
the local board of tax review pursuant to section 718.11 of the 768  
Revised Code, and has "ASSESSMENT" written in all capital 769  
letters at the top of such finding. 770

(2) "Assessment" does not include an informal notice 771  
denying a request for refund issued under division (B) (3) of 772  
section 718.19 of the Revised Code, a billing statement 773  
notifying a taxpayer of current or past-due balances owed to the 774  
municipal corporation, a tax administrator's request for 775  
additional information, a notification to the taxpayer of 776  
mathematical errors, or a tax administrator's other written 777

correspondence to a person or taxpayer that does not meet the 778  
criteria prescribed by division (PP) (1) of this section. 779

(QQ) "Taxpayers' rights and responsibilities" means the 780  
rights provided to taxpayers in sections 718.11, 718.12, 718.19, 781  
718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the 782  
Revised Code and the responsibilities of taxpayers to file, 783  
report, withhold, remit, and pay municipal income tax and 784  
otherwise comply with Chapter 718. of the Revised Code and 785  
resolutions, ordinances, and rules adopted by a municipal 786  
corporation for the imposition and administration of a municipal 787  
income tax. 788

(RR) "Qualified municipal corporation" means a municipal 789  
corporation that, by resolution or ordinance adopted on or 790  
before December 31, 2011, adopted Ohio adjusted gross income, as 791  
defined by section 5747.01 of the Revised Code, as the income 792  
subject to tax for the purposes of imposing a municipal income 793  
tax. 794

(SS) (1) "Pre-2017 net operating loss carryforward" means 795  
any net operating loss incurred in a taxable year beginning 796  
before January 1, 2017, to the extent such loss was permitted, 797  
by a resolution or ordinance of the municipal corporation that 798  
was adopted by the municipal corporation before January 1, 2016, 799  
to be carried forward and utilized to offset income or net 800  
profit generated in such municipal corporation in future taxable 801  
years. 802

(2) For the purpose of calculating municipal taxable 803  
income, any pre-2017 net operating loss carryforward may be 804  
carried forward to any taxable year, including taxable years 805  
beginning in 2017 or thereafter, for the number of taxable years 806  
provided in the resolution or ordinance or until fully utilized, 807

whichever is earlier. 808

(TT) "Small employer" means any employer that had total 809  
revenue of less than five hundred thousand dollars during the 810  
preceding taxable year. For purposes of this division, "total 811  
revenue" means receipts of any type or kind, including, but not 812  
limited to, sales receipts; payments; rents; profits; gains, 813  
dividends, and other investment income; compensation; 814  
commissions; premiums; money; property; grants; contributions; 815  
donations; gifts; program service revenue; patient service 816  
revenue; premiums; fees, including premium fees and service 817  
fees; tuition payments; unrelated business revenue; 818  
reimbursements; any type of payment from a governmental unit, 819  
including grants and other allocations; and any other similar 820  
receipts reported for federal income tax purposes or under 821  
generally accepted accounting principles. "Small employer" does 822  
not include the federal government; any state government, 823  
including any state agency or instrumentality; any political 824  
subdivision; or any entity treated as a government for financial 825  
accounting and reporting purposes. 826

(UU) "Audit" means the examination of a person or the 827  
inspection of the books, records, memoranda, or accounts of a 828  
person for the purpose of determining liability for a municipal 829  
income tax. 830

(VV) "Publicly traded partnership" means any partnership, 831  
an interest in which is regularly traded on an established 832  
securities market. A "publicly traded partnership" may have any 833  
number of partners. 834

(WW) "Tax commissioner" means the tax commissioner 835  
appointed under section 121.03 of the Revised Code. 836

(XX) "Out-of-state disaster business," "qualifying solicitation," "qualifying employee," "disaster work," "critical infrastructure," and "disaster response period" have the same meanings as in section 5703.94 of the Revised Code.

(YY) "Pension" 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.

(ZZ) "Retirement benefit plan" 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.

**Section 2.** That existing section 718.01 of the Revised Code is hereby repealed.

**Section 3.** The amendment by this act of section 718.01 of the Revised Code applies to taxable years beginning on or after January 1, 2023.

**Section 4.** Section 718.01 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 228 and S.B. 217 of the 134th General Assembly, and both H.B. 197 and S.B. 276 of the 133rd General Assembly. The General Assembly, applying the principle stated in division (B) of

section 1.52 of the Revised Code that amendments are to be	866
harmonized if reasonably capable of simultaneous operation,	867
finds that the composite is the resulting version of the section	868
in effect prior to the effective date of the section as	869
presented in this act.	870