

BY: Vice Mayor Johnson

ORDINANCE NO. 24-2023

AN ORDINANCE TO AMEND CHAPTER 181 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF GRANVILLE REGARDING MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted HB 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in Chapter 718;” and

WHEREAS, upon a detailed review of HB 49, HB 166, and HB33 and the Codified Ordinances of the Village of Granville, this Ordinance is found and determined by this Council to enact the amendments required in Section 181.10(c)(3), addition of Section 181.31, amendments to 181.03(bb), 181.062(a), 181.062(d), 181.094(a), 181.10(c)(4)(A), 181.10(c)(4)(B), addition of Section 181.03(k)(1), 181.062(i), and 181.094(f) prior to the January 1, 2024 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code. All other amendments or additions to the Village of Granville Tax Code found at Chapter 181 of the Codified Ordinances of Granville were to correct errors, typos, or omissions identified in the original legislation since its enactment; and

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF GRANVILLE, STATE OF OHIO, THAT:

Section I. Amendments to Chapter 181 of the Codified Ordinances of Granville, entitled “Income Tax Effective January 1, 2016,” shall read as set forth in “EXHIBIT A” hereto and incorporated herein by reference, is hereby enacted.

Section II. This ordinance shall become effective and in force on January 1, 2024.

Passed this 15th day of November, 2023.

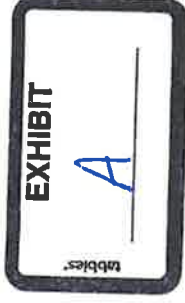
ATTEST:


Autumn Klein, Clerk of Council


Melissa Hartfield, Mayor

APPROVED AS TO FORM:


William Mattes, Law Director



CHAPTER 181

Income Tax Effective January 1, 2016

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- 181.011 Authority to levy tax.
- 181.012 Purposes of tax; rate.
- 181.013 Allocation of funds.
- 181.014 Statement of procedural history; state mandated changes to municipal income tax.
- 181.02 Effective date.
- 181.03 Definitions.
- 181.04 Income subject to tax for individuals.
- 181.041 Determining municipal taxable income for individuals.
- 181.042 Domicile.
- 181.043 Exemption for member or employee of general assembly and certain judges.
- 181.05 Collection at source.
- 181.051 Collection at source; withholding from qualifying wages.
- 181.052 Collection at source; occasional entrant.
- 181.06 Income subject to net profit tax.
- 181.061 Determining municipal taxable income for taxpayers who are not individuals.
- 181.062 Net profit; income subject to net profit tax; alternative apportionment.
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- 181.064 Tax credit for businesses that foster new jobs in Ohio.
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- 181.16 Opinion of the Tax Administrator.
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- 181.18 Local Board of Tax Review; appeal to Local Board of Tax Review.
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- 181.20 Adoption of rules.
- 181.21 Mandatory registration.
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- 181.30 Contract provisions.

181.31 ELECTION BY A NET PROFIT TAXPAYER TO BE SUBJECT TO THE PROVISIONS OF OHIO REVISED CODE CHAPTER 718.80 TO 718.95

- 181.97 Collection after termination of chapter.
- 181.98 Savings clause.
- 181.99 Violations; penalty.

CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3
- Annual tax budget - see Chtr. 6.02
- Tax levies - see Chtr. 6.04
- Municipal Income Taxes - see Ohio R.C. Ch. 718
- Income Tax Bureau - see ADM. Ch. 133

181.03 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:

- (k) "EXEMPT INCOME" means all of the following:

(23) For tax years 2024 and after, the income of individuals under 18 years of age

- (n) "INCOME" means the following:

(1) (B) For the purposes of division (n)(A1)(A) of this section:

(w) "NET PROFIT" as used in this chapter shall mean

(2) 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 taken before any passive activity or at-risk limitations, reduced by any net operating loss carried forward. For the purposes of division (w)(1) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (a)(8) of this section.

(bb) "PENSION" means

(1) From January 1, 2016 to December 31, 2019, "PENSION" 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.

(2) Effective January 1, 2020 "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

181.05 COLLECTION AT SOURCE.

181.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(Ord. 15-15. Passed 12-2-15.)

181.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPOINTMENT.

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 provided in divisions (f)(2) and (g) 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:

(d) For the purposes of division (a)(3) of this section, and except as provided in division (g) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

(Ord. 15-15. Passed 12-2-15.)

(i)(1) As used in this division:

- "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 d of this 181.051, 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 (g)(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 (g)(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 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 (f)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (g)(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)(1) 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 d of this 181.05

181.094 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 in or after January 1, 2023, the extended due date of Granville's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates.

(f) If a taxpayer receives an extension for the filing of a municipal income tax return under division 181.094(a),(c), 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 191.094 (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 \$150.00.

Division (D) 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 under division (c) of this section.

181.10 PENALTY, INTEREST, FEES, AND CHARGES

(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.

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

(4) For tax years ending on or before December 31, 2022. Wwith 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 return other than estimated income tax returns, Granville may impose a penalty not exceeding \$25.00 for each failure to timely file each return, regardless of the liability shown thereon, except that Granville shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that return.

(5) With respect to failure to file a mandatory registration form, the Municipality shall impose a penalty of \$5.00 per day for each day over 30 the form remains outstanding. The penalty shall not exceed a total of \$100.00 in assessed penalty.

181.135 DUTIES OF THE TAX COMMISSIONER.

(a) (1) The Tax Commissioner shall collect and receive the tax imposed by this chapter in the manner prescribed herein, shall keep an accurate record thereof and shall report all moneys so received.

(2) The Tax Commissioner shall enforce payment of all income taxes owing the Municipality, shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and shall show the dates and amounts of payments thereof.

(b) The Tax Commissioner is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of a majority of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter.

(e) Upon the demonstration and documentation of good cause, the Tax Commissioner shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter.

181.21 MANDATORY REGISTRATION

(c) On October 1, 1984 and on every year thereafter all landlords who ~~rent~~rent property in the Municipality shall submit an up-to-date list of their tenants to the Commissioner. This list is not required if the tenants are responsible for their own utility payments.

181.31 - ELECTION BY A NET PROFIT TAXPAYER TO BE SUBJECT TO THE PROVISIONS OF OHIO REVISED CODE CHAPTER 718.80 TO 718.95

This section applies to any taxpayer, not an individual, engaged in a business or profession in the Municipality and electing to be subject to Sections 718.80 through 718.95 of the Ohio Revised Code, applicable for tax years beginning on or after January 1, 2018, pursuant to the language enacted by the Ohio Legislature during the 132nd General Assembly in the form of Am. Sub House Bill 49, which required municipal corporations to conform to and adopt the provisions of Ohio Revised Code Chapter 718 in order to retain the authority to impose, enforce, administer and collect a municipal income tax.

(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 Ohio Revised Code Chapter 718. Notwithstanding any other provision of Chapter 718, upon the taxpayer's election, both of the following shall apply:

(1) The tax commissioner shall serve as the sole administrator of the 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 first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and each municipal corporation in which the taxpayer conducted business during the previous taxable year, on a form prescribed by the tax commissioner.

(2) (A) The election, once made by the taxpayer, applies to the taxable year in which the election is made. A taxpayer may terminate the initial election within twenty-four months after the election is made by providing written notice to the tax commissioner. Such notice shall be provided at least sixty days before the effective date of the termination. Effective on the termination date, the taxpayer shall make all payments and remittances, and file all returns, due on or after the termination date to the appropriate municipal tax administrator. If not terminated, the election shall continue to apply to each subsequent taxable year until the taxpayer notifies the tax commissioner of its termination of the election.

(B) After the end of the twenty-four-month period in which a taxpayer may terminate an initial election, a notification of termination shall be made, on a form prescribed by the 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 this chapter.

(c) (1)

(A) On or before the thirty-first day of January each year, the municipal corporation 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, the electors of the municipal corporation approve an increase in the rate of the municipal corporation's tax on income that 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 increase, after which effective date the commissioner shall apply the increased rate.

(2) The municipal corporation, within ninety days of receiving a taxpayer's notification of election under division (B) of this section, shall submit to the tax commissioner, on a form prescribed by the tax commissioner, the following information regarding the taxpayer:

- (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) If the municipal corporation fails to timely comply with divisions (C)(1) and (2) of this section, the tax commissioner shall notify the director of budget and management, who, upon receiving such notification, shall withhold from each payment made to the municipal corporation under section 718.83 of the Revised Code 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) and (2) of this section.

(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 Chapter 718, 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.