



Municipal Net Profit Tax

MNP 2024-01 – Am. Sub. H.B. 33 Updates – Issued March 2024

Introduction

The purpose of this information release is to advise taxpayers and municipalities of recent legislative changes made by Am. Sub. H.B. 33 related to the municipal net profit tax as administered by the Ohio Department of Taxation (ODT). The contents of this information release apply to those taxpayers that have made a valid election to opt-in with the tax commissioner to have the state administer the municipal net profit tax under Ohio Revised Code (R.C.) 718.80.

New Extended Tax Return Due Date

Taxpayers that duly request an automatic extension for filing the taxpayer's federal tax return automatically receive an extension for filing the municipal net profit tax return with the tax commissioner. For taxable years ending on or after January 1, 2023, taxpayers will receive an extra month to file on extension. The extended due date of the tax return is now the fifteenth day of the eleventh month after the last day of the taxable year to which the return relates. For calendar year taxpayers, the extended due date of the return will be November 15th (previously, October 15th). Note, the extension of time to file the return does not extend the time to pay any tax due. See R.C. 718.85. For more information on due dates, visit tax.ohio.gov/business/ohio-business-taxes/municipal-tax/generalinformation.

New Apportionment Election for Remote Workers

For taxable years ending on or after December 31, 2023, a new election is available to municipal net profit tax taxpayers to allow those with remote workers to use an alternative apportionment formula to calculate their municipal net profit tax.

The modified formula assigns the remote employees' or owners' property, payroll, and receipts to a "qualifying reporting location," which is determined using a hierarchy of locations starting with the place where an employee performs services for the business on a regular or periodic basis. If that location does not exist, the amounts are assigned to a location where the employee's or owner's supervisor regularly or periodically reports during the year, and if that location does not exist, then the business assigns the amounts to a location determined in good faith and recorded on the



business' records. The modified formula only applies to the apportionment of the property, payroll, and receipts attributable to a taxpayer's remote employees or owners. All property, payroll, and receipts that are not attributable to remote employees or owners are apportioned according to the provisions in R.C. 718.82.

Nothing 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 R.C. 718.82(B). However, the commissioner may 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.

Note, the election has no impact on the obligation to withhold taxes on qualifying wages under R.C. 718.011 and R.C. 718.03.

See R.C. 718.821 and 718.021 for more information.

How To Make the Election

Taxpayers must make the election by notifying the tax commissioner in writing on or with the taxpayer's municipal net profit tax return or, if applicable, a timely filed amended municipal net profit tax return, or a timely filed appeal of an assessment. The election applies to the taxable year for which the return or appeal is filed and for all subsequent taxable years until the taxpayer revokes the election. After the taxpayer makes the election, it applies to every municipal corporation in which the taxpayer conducts business. After revoking an election to use this method, a new election may be made at any time (no waiting period applies after a revoked election to make a new election).

If a taxpayer wishes to make the election for any taxable year, the taxpayer should check the box next to the line labeled "Election to Apportion to a Qualifying Reporting Location for Remote Workers" when filing the return to indicate that the taxpayer is making the election to apportion the property, payroll, and receipts of remote workers or owners using the alternative method. A screenshot of the checkbox on the return is included below. To revoke the election, a taxpayer should uncheck the box (if filing an amended return), or leave the box unchecked on the return in a subsequent taxable year. If a taxpayer wishes to make the election or revoke an election in response to an assessment, the taxpayer should do so in writing with its petition for reassessment.



Ohio Municipal Net Profit Tax - Annual Return

1 Select Filing Period

2 Enter Information

3 Review and File

4 Confirmation

Account Number

Taxable Year 2023 Amended

* All fields are required

Business Allocation Formula - Schedule B

1. Total property \$

1a. Average original cost of property \$

1b. Gross annual rentals \$

2. Election to Apportion to a Qualifying Reporting Location for Remote Workers

3. Total compensation paid to all employees \$

4. Gross receipts from sales or services \$

The Modified Apportionment Formula

Each factor in the modified apportionment formula is described below and, following the description, the bolded terms are defined.

Property Factor:

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**.

Payroll Factor:

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**.

Receipts Factor:

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**.



What is a Qualifying Remote Employee or Owner?

A “**qualifying remote employee or owner**” is 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:

- (a) The taxpayer has assigned the individual to a qualifying reporting location; and
- (b) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

What is a Qualifying Remote Work Location?

A “**qualifying remote work location**” is 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.

What is a Qualifying Reporting Location?

The “**qualifying reporting location**” is one of the following:

- (a) 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;
- (b) If no **reporting location** exists in this state for an employee or owner under (a), the **reporting location** in this state at which the employee’s or owner’s supervisor regularly or periodically reports during the taxable year;
- (c) If no **reporting location** exists in this state for an employee or owner under (a) or (b), 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.

“**Reporting location**” means either of the following:



(a) 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;

(b) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold municipal income taxes under R.C. 718.03 on qualifying wages paid to an employee for the performance of personal services at that location.

Example

Taxpayer A's headquarters is located in City B, which is the only location that Taxpayer A owns. All of Taxpayer A's employees have the option to work from home four days a week but must report to headquarters at least once a week. Taxpayer A's employees live in various cities, villages, and townships around the state. Instead of apportioning property used at the location of employees' homes and sales and services provided at the location of the employees' homes to those various locations, Taxpayer A makes the election to use the modified apportionment method for its employees that work remotely. The *reporting location* for Taxpayer A is City B because the headquarters location is a permanent place of doing business that is owned or controlled directly by Taxpayer A. The *qualifying reporting location* of Taxpayer A's employees is City B because they all are required to report regularly to the headquarters location in City B during the year (at least once a week).

Upon making the election, Taxpayer A must apportion the property, payroll, and receipts attributable to its qualifying remote employees, as follows:

The average original cost of any tangible personal property used by Taxpayer A's employees at their home locations must be situated to City B. Any wages, salaries, and other compensation paid during the taxable period to a Taxpayer A's employees for services performed at the employees' homes must be situated to City B. Any gross receipts of the business or profession from services performed during the taxable period by Taxpayer A's employees for services performed at the employees' homes shall be situated to City B.

This example is intended to illustrate the general concept described in this information release and other tax considerations may apply.



Penalties and Notices

For taxable years ending on or after January 1, 2023, if a taxpayer fails to timely file a municipal net profit tax return, the penalty is now limited to \$25. The penalty previously imposed for a late filed return was \$25 per month for each month elapsing between the due date and the date on which the return was filed, up to \$150. Additionally, the commissioner will abate or refund the late file penalty on a taxpayer's first failure to timely file a return after the taxpayer files that return. The tax commissioner will automatically abate the taxpayer's first late filing penalty with no action required by the taxpayer to obtain this penalty relief. If a taxpayer believes they have been charged a penalty that should have been abated, please contact ODT at the number below. See R.C. 718.89.

If a taxpayer receives an extension for filing its federal income tax return or requests an extension for filing its municipal net profit tax return, the tax commissioner will not send any notices or inquiries 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 of the return, whichever occurs first. See R.C. 718.85.

Rate Certification and Semiannual Reports (For Municipalities)

Municipalities are now required to certify any tax rate change to the tax commissioner not less than sixty days before the effective date of the new rate. See R.C. 718.80.

ODT provides semiannual reports to each municipality with taxpayers having municipal taxable income apportionable to the municipality during the applicable reporting period. These semiannual reports have historically been provided in May and November each year. To align with the new extended tax return due date, the reports will now be provided each May and December. See R.C. 718.84.

Contact Us

Please visit tax.ohio.gov/FAQ to view our frequently asked questions or direct any questions you may have to the ODT at 1-844-238-0403 or MNPTax@tax.ohio.gov. For persons using text telephones (TTYs) or adaptive telephone equipment, please contact the Ohio Relay Service at 1-800-750-0750 and give the operator ODT's telephone number.