

Emergency

Retroactive
back to
Sept. 2016

ORDINANCE NO. 3-18-715

AN ORDINANCE TO AMEND CHAPTER 181 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WAYNE REGARDING MUNICIPAL INCOME TAX.

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVII, 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 Council of the Village of Wayne has heretofore established a municipal income tax by Ordinance 10-14-684 (passed October 15, 2014) and amended by Ordinances 12-15-695 (passed December 16, 2015) and Ordinance 6-16-701 (passed June 18, 2016), which Income Tax is codified as Chapter 181 *et seq*, “Village Income Tax Code,” and

WHEREAS, the Ohio General Assembly enacted S.B. 172, effective on September 12, 2016, which amended certain provisions contained in Chapter 718 of the Ohio Revised Code that necessarily affect the municipal income tax levied by the Village; and

WHEREAS, upon a detailed review of S.B. 172 and the Codified Ordinances of the Village of Wayne, this instant Ordinance amending the Village Income Tax Code is found and determined by this Council to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court. Notwithstanding the foregoing, these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in [Chapter 718]” and thus reluctantly are adopted by this Council, but are disclaimed to the extent they are unlawful or unconstitutional.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAYNE, COUNTY OF WOOD, STATE OF OHIO, THAT:

Section 1. That Chapter 181.014 of the Village Income Tax Code be amended to read as follows:

181.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

- (A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.
- (B) As mandated by H.B. 5, municipal income tax Ordinance 12-15-695, effective January 1, 2016, comprehensively amends Chapter 181 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.
- (C) As mandated by S.B. 172, municipal income tax Ordinance _____, effective January 1, 2017, comprehensively amends Chapter 181 in accordance with the provisions of ORC 718 to govern the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

Section 2. That Chapter 181.02 of the Village Income Tax Code be amended to read as follows:

181.02 EFFECTIVE DATE

- (A) Ordinance 12-15-695, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 181 apply to taxable years beginning 2016 and succeeding taxable years.
- (B) Ordinance 12-15-695 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.
- (C) Ordinance 6-16-701 amended Section 14 of Ordinance 10-14-684, re-allocating the distribution of the tax collected, for the 2015 tax year only.
- (D) Ordinance _____, effective January 1, 2017, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2017. All provisions of this Chapter 181 apply to taxable years beginning 2017 and succeeding taxable years.
- (E) Ordinance _____ does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2017. For municipal taxable years beginning before January 1, 2017, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Source: Uncodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04; S.B. 172, passed September 2016)

Section 3. That Chapter 181.051(B) of the Village Income Tax Code be amended to read as follows:

181.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES

- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
 - (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
 - (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made to the Tax Administrator not later than fifteen days after the last day of each month.

Section 4. That Chapter 181.091(I) of the Village Income Tax Code be amended to read as follows:

181.091 RETURN AND PAYMENT OF TAX

- (I) (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

- (2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment. For purposes of this section, "receiving that payment" refers to the transfer of funds from the account of the taxpayer. Such funds are no longer under the control of the taxpayer once the timestamp has occurred.

Section 5. That the above amendments to Chapter 181 of the Village Income Tax Code have been fully incorporated into the document entitled "Chapter 181, Income Tax" attached hereto as Exhibit A and incorporated herein by reference.

Section 6. That this Ordinance shall take effect and be in force from and after January 1, 2017.

Section 7. Copies of this Ordinance were posted in not less than five of the most public places in the Village, as determined by Council, for a period of not less than fifteen days prior to the effective date hereof.

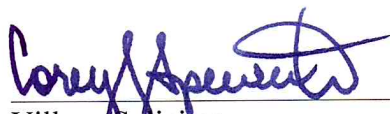
Section 8. All formal actions of Council relating to the adoption of this ordinance, and all deliberations of Council and any of its committees leading to such action were in meetings open to the public as required by law.

ATTEST:


Clerk of Council


President of Council

APPROVED AS TO FORM:


Village Solicitor

APPROVED:


Mayor