

MODIFYING Chapter 311 of the Cincinnati Municipal Code, “City of Cincinnati Income Tax,” by **AMENDING** Sections 311-3, “Purposes; Imposition of Tax; Tax Rates,” 311-7, “Allocation of Funds,” and 311-23, “Collection at Source; Withholding from Qualifying Wages,” to include changes to the City’s earnings tax rate to comply with Article VIII, Section 6c of the Charter of the City.

WHEREAS, on November 5, 2019, the voters of the City of Cincinnati approved an amendment to Section 6c of Article VIII, “Taxation and Finance,” of the Charter of the City providing that, in the event that the voters of Hamilton County approved a sales and use tax to provide a dedicated source of funding for the Metro bus system (“SORTA Sales Tax Levy”) at an election on or before November 3, 2020, the 0.3 percent public transit earnings tax would be eliminated so the overall City earnings tax rate would be reduced from 2.1 percent to 1.8 percent; and

WHEREAS, on March 17, 2020, the voters of Hamilton County approved the SORTA Sales Tax Levy; and

WHEREAS, the tax levied pursuant to the SORTA Sales Tax Levy became effective on October 1, 2020, and the 0.3 percent public transit earnings tax was eliminated effective October 2, 2020 pursuant to Article VIII, Section 6c of the Charter; and

WHEREAS, amendments to the Cincinnati Municipal Code are required in order to reflect the current City earnings tax established by Article VIII, Section 6c of the Charter; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Sections 311-3, “Purposes; Imposition of Tax; Tax Rates,” 311-7, “Allocation of Funds,” and 311-23, “Collection at Source; Withholding from Qualifying Wages,” of Chapter 311, “City of Cincinnati Income Tax,” of the Cincinnati Municipal Code are hereby amended to read as follows:

Sec. 311-3. - Purposes; Imposition of Tax; Tax Rates.

- (a) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Cincinnati, including the pledging and payment of tax revenues for the principal and interest on bonds and notes issued to finance permanent

improvements, and to provide public transit purposes generally and without limitation and including both capital and current operating expenses, there shall be, and is hereby, levied an annual tax, at the rate of ~~two percent~~ 1.7 percent (1.7%) per annum upon municipal taxable income as defined in Section 311-9-M2 of this chapter, subject to the provisions of Section 311-107 of this chapter. For tax years beginning prior to January 1, 2016, the tax imposed by this section on the net profits of an electric company, combined company or telephone company shall be subject to, and shall accord with, Ohio Revised Code Chapter 5745.

- (b) To provide funds for current operating expenses and permanent improvement purposes, including both direct and indirect cost (including the pledging and payment of tax revenues for the principal and interest on bonds and notes to finance permanent improvements) related to the construction, operation, equipment, maintenance and repair of the infrastructure of the city, including, but not limited to, streets, roads, thoroughfares, avenues, expressways, parkways, sidewalks, plazas, parks, recreation areas, grounds, ways, bridges, viaducts, tunnels, walls, structures, buildings, fixtures, traffic signals, street lighting and marking, landscaping, signage, telecommunications and information systems, there shall be, and is hereby levied on and after July 1, 1988, an annual tax at the rate of ~~one-tenth of one~~ 0.1 percent (0.1%) per annum, in addition to any other tax imposed by Chapter 311 pursuant to authority granted in the charter of the city, and subject to provisions of Section 311-5 and 311-107 herein, upon those categories of income specified in Section 311-9-M2, as amended.

Sec. 311-7. - Allocation of Funds.

- (a) The revenues collected under the provisions of Section 311-3(a) shall be deposited in, and allocated to, the “Undistributed Income Tax Fund.” ~~and thereafter the revenue from the first 1.7 percent (1.7%) municipal income tax rate imposed under Section 311-3(a) shall be allocated to the Undistributed Income Tax Fund, and the revenues from the remaining three-tenths of 1 percent (0.3%) municipal income tax rate imposed under Section 311-3(a) shall be allocated to the Income Tax—Transit Fund.~~ Each year council shall appropriate from ~~said funds~~ the Undistributed Income Tax Fund the amount of money it determines necessary for current operating expenses and permanent improvements allocable to said funds; except that ~~from the Undistributed Income Tax Fund,~~ not less than ~~fifteen-hundredths of 1~~ 0.15 percent (0.15%) shall be used as required by the charter for the financing of permanent improvements, including the pledging of such tax revenue for payment of principal and interest on bonds and notes issued by the Municipality to finance permanent improvements.
- (b) The revenues collected pursuant to the imposition of tax in Section 311-3(b) shall be deposited into the “Undistributed Income Tax Fund” and shall thereafter be allocated to the “Income Tax—Infrastructure Fund.” Each year, council shall appropriate from said funds the amount of money it determines necessary for current operating expenses and permanent improvements allocable to said fund in accordance with the purposes set forth in Section 311-3(b).

Sec. 311-23. - Collection at Source; Withholding from Qualifying Wages.

- (a)(i) Each employer, agent of an employer, or other payer located within, or doing business within, the Municipality who employs one or more persons on a qualifying wages basis shall withhold from each employee an amount equal to ~~2.1~~1.8 percent (~~2.1~~1.8 %) of the qualifying wages earned by the employee in the Municipality, except for qualifying wages for which withholding is not required under Section 311-27 of this chapter or under subsections (a)(iii) or (d) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (1) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
 - (2) For tax years beginning prior to January 1, 2016, no person is required to deduct and withhold municipal income tax on the qualifying wages or other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing municipal income tax returns and paying municipal income tax due on their qualifying wages.
- (ii) In addition to withholding the amounts required under subsection (a)(i) of this section, an employer, agent of an employer, or other payer may also deduct and withhold municipal income taxes at the request of an employee who is a resident of the Municipality. The tax commissioner shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this chapter to be tax required to be withheld and remitted for the purposes of this section.
- (iii) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (b) An employer, agent of an employer, or other payer shall make a return and remit to the tax commissioner 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 commissioner to accompany such payment, according to the following schedule:

- (i) Any employer, agent of an employer, or other payer not required under subsections (b)(ii) or (b)(iii) of this section to make monthly or semimonthly payments of municipal income taxes required to be deducted and withheld shall make quarterly payments not later than the last day of the month following the end of each calendar quarter ending prior to January 1, 2016 and not later than the last day of the month following the end of each calendar quarter beginning on or after January 1, 2016.
- (ii)(1) Taxes required to be deducted and withheld during any calendar year ending prior to January 1, 2016 shall be remitted monthly to the tax commissioner if the total taxes deducted and withheld or required to be deducted and withheld in the preceding calendar year were more than \$3,600.00 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 ~~three hundred dollars~~ (\$300) per month.
 - (2) Taxes required to be deducted and withheld during any calendar year beginning on or after January 1, 2016 shall be remitted monthly to the tax commissioner if the total taxes deducted and withheld or required to be deducted and withheld in the preceding calendar year were more than \$2,399.00 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~~ (\$200) per month.
 - (3) Payment under subsection (b)(ii) of this section shall be made so that the payment is received by the tax commissioner not later than fifteen (15) days after the last day of each month.
- (iii) Beginning January 1, 2016, taxes required to be deducted and withheld shall be remitted semimonthly to the tax commissioner if the total taxes deducted and withheld or required to be deducted on behalf of the Municipality in the preceding calendar year were more than \$11,999.00, 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 year exceeded \$1,000. The payment under subsection (b)(iii) of this section shall be made so that the payment is received by the tax commissioner not later than one of the following:
 - (1) If the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen (15) days of a month, the third (3rd) banking day after the fifteenth (15th) day of that month; or
 - (2) If the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth (15th) day of a month and before the first (1st) day of the immediately following month, the third (3rd) banking day after the last day of that month.

- (iv) An employer, agent of an employer or other payer that is required by 26 USC 6302 and 26 CFR 31.6302-1, or any other federal statutes or regulations, to make payments electronically for the purpose of paying federal taxes withheld on payments to employees shall make payment by electronic funds transfer to the tax commissioner of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality. The payment of tax by electronic funds transfer under this subsection does not affect an employer's, an agent's, or another payer's obligation to file any return as required under this Section 311-23. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.
- (v) The tax commissioner shall adopt rules governing the remittance of withheld municipal income taxes by electronic funds transfer as required by this chapter. The tax commissioner may grant an exemption to an employer from the duty to make payment by electronic funds transfer upon application for such exemption by the employer and the employer's demonstration to the tax commissioner that the requirement to make payment by electronic funds transfer will impose a hardship upon the employer. The tax commissioner may implement means of acknowledging, upon request of a taxpayer, receipt of electronic tax remittances. The person requesting acknowledgement shall pay the cost of acknowledging receipt of electronic remittances.
- (vi) An employer, agent of an employer, or other payer shall make and file a return showing the amount of municipal income taxes withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the tax commissioner on a form or forms prescribed by or acceptable to the tax commissioner and subject to the rules and regulations prescribed therefore by the tax commissioner. An employer may report the amount of municipal income tax withheld from qualifying wages paid on or after January 1, 2007, and may remit such amounts, by using the Ohio business gateway. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.
- (c)(i) An employee is not relieved from liability for municipal income tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Section 311-23 or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (ii) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the municipal income tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (d) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent

the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

- (e) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the tax commissioner.
- (f) All officers, members, managers, employees, trustees of the employer, agents of an employer, or other payers with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be jointly and severally personally liable for a failure to file a report or pay the tax due as required by this section. For tax years beginning prior to January 1, 2016, such person shall also be jointly and severally personally liable for any related interest and penalties and are also liable under the provisions of Section 311-999. The dissolution of an employer, agent of an employer, or other payer does not discharge an officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (g) A failure to file any return under this section may result in interest and civil penalties pursuant to Section 311-73 and Section 311-75 of this chapter.

Section 2. That existing Sections 311-3, "Purposes; Imposition of Tax; Tax Rates," 311-7, "Allocation of Funds," and 311-23, "Collection at Source; Withholding from Qualifying Wages," of Chapter 311, "City of Cincinnati Income Tax," of the Cincinnati Municipal Code are hereby repealed.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strikethrough.