

May 3, 2021

To: Members of Budget and Finance Committee 202101601

From: Paula Boggs Muething, City Manager

Subject: Report – Work from Home Impact on Earnings Tax

REFERENCE DOCUMENT #202101152

On March 24, 2021 Cincinnati City Council passed the following motion:

MOTION, submitted by Councilmember Goodin, Vice Mayor Smitherman, Councilmember Sundermann, Keating and Kearney, During the COVID-19 pandemic, Cincinnati workers have adopted remote working at an amazing pace. Many routine office activities have been replaced by video conferencing and digital access to documents. While these innovations have kept our economy moving, they also present a looming crisis for Ohio's cities. More than 70 percent of Cincinnati's revenue is derived from its earning tax, and a significant portion of that percentage is derived from non-City residents who formerly worked in downtown offices. Recent litigation and potential legislation have called into question our ability to tax those workers in the long term. These actions notwithstanding, many businesses may simply choose to close their offices or reduce their physical footprint in the City, thus shrinking the tax base over time. Accordingly, WE MOVE that the Administration prepare a report outlining the loss in revenue to the City per annum if, variably, 10, 20 or 30 percent of non-resident City workers would no longer be subject to the City's earnings tax.

There are two outstanding issues related to the work from home issue referenced in the motion. The first issue relates to potential refunds that could be due for income tax revenue collected from non-residents during the pandemic, and the second issue is the loss of income tax revenue if non-residents continue to work from home once the pandemic emergency order is lifted.

The City of Cincinnati has collected income tax from non-resident City workers who are working from home due to the COVID-19 pandemic in accordance with State of Ohio House Bill 197.

There is ongoing litigation challenging H.B. 197's authorization during the pandemic for a city to continue collecting municipal income taxes from remote-working employees that would be commuting to offices within the city but for the pandemic. While there

has been a positive ruling in a trial court in Franklin County dismissing the case in the city's favor, there is still risk to the City of Cincinnati in the court case filed against the City in Hamilton County. In addition, there is risk that an appellate court could overturn the favorable rulings in Hamilton County or Franklin County. If the City does not prevail in this litigation and any possible appeals, it could result in an order to refund City income taxes to individuals who worked remotely due to the pandemic. The UC Economics Center estimates refunds could range from \$137 million to \$173 million in the General Fund. The Administration will continue to monitor this situation closely and revise the plan if necessary.

Going forward, the UC Economics Center predicts that many companies will shift to hybrid work environments which allow employees to continue to work from home either full-time or part-time. Individuals who shift to working from home outside the City will no longer be subject to the Cincinnati earnings tax on income earned while working at home. On the otherhand, individuals who are City residents and previously worked in another jurisdiction will no longer receive a credit from the City for taxes paid to the other jurisdiction. The UC Economics Center estimates approximately 16.4 to 24 percent of the City's individual and withholding income tax revenue will be at risk as a result of this shift. The chart below provides the potential annual loss in revenue for FY 2022 based on the percentages in the motion as well as the 16.4 to 24 percent range provided by the UC Economics Center.

Revenue Loss Estimates due to Work from Home

		FY2022		FY2022
		All Funds		General Fund
<i>Per the motion:</i>				
	10%	\$ 32,264,568	\$	27,747,528
	20%	\$ 64,529,135	\$	55,495,056
	30%	\$ 96,793,703	\$	83,242,585
<i>Per UC report:</i>				
	16.4%	\$ 52,913,891	\$	45,505,946
	24%	\$ 77,434,963	\$	66,594,068

The Administration has revised income tax revenue estimates for the Recommended FY 2022 - 2023 Biennial Budget to account for the potential loss of revenue due to the work from home issue. In addition, the Administration will continue to monitor both work from home issues closely and provide updates to the Mayor and City Council as more information becomes available.

Attachment

c: Karen Alder, Finance Director
 Christopher A. Bigham, Assistant City Manager
 William Weber, Assistant City Manager