

I_134_0159-2

134th General Assembly
Regular Session
2021-2022

Sub. S. B. No. 97

A BILL

To amend section 718.19 of the Revised Code and to
amend Section 29 of H.B. 197 of the 133rd
General Assembly to modify municipal income tax
employer withholding rules for COVID-19-related
work-from-home employees and tax refund
requirements.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 718.19 of the Revised Code be
amended to read as follows:

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Sec. 718.19. (A) Upon receipt of a request for a refund,
the tax administrator of a municipal corporation, in accordance
with this section, shall refund to employers, agents of
employers, other payers, or taxpayers, with respect to any
income or withholding tax levied by the municipal corporation:

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(1) Overpayments of more than ten dollars;

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(2) Amounts paid erroneously if the refund requested
exceeds ten dollars.

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(B) (1) Except as otherwise provided in this chapter, 17
requests for refund shall be filed with the tax administrator, 18
on the form prescribed by the tax administrator in compliance 19
with this chapter, within three years after the tax was due or 20
paid, whichever is later. The tax administrator may require the 21
requestor to file with the request any documentation that 22
substantiates the requestor's claim for a refund, except that, 23
if the requestor claims a refund of amounts withheld by the 24
requestor's employer, the tax administrator may not require a 25
statement from the employer as a condition for processing the 26
request. 27

(2) On filing of the refund request, the tax administrator 28
shall determine the amount of refund due and certify such amount 29
to the appropriate municipal corporation official for payment. 30
Except as provided in division (B) (3) of this section, the 31
administrator shall issue an assessment to any taxpayer whose 32
request for refund is fully or partially denied. The assessment 33
shall state the amount of the refund that was denied, the 34
reasons for the denial, and instructions for appealing the 35
assessment. 36

(3) If a tax administrator denies in whole or in part a 37
refund request included within the taxpayer's originally filed 38
annual income tax return, the tax administrator shall notify the 39
taxpayer, in writing, of the amount of the refund that was 40
denied, the reasons for the denial, and instructions for 41
requesting an assessment that may be appealed under section 42
718.11 of the Revised Code. 43

(C) A request for a refund that is received after the last 44
day for filing specified in division (B) of this section shall 45
be considered to have been filed in a timely manner if any of 46

the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) As used in this section, "withholding tax" has the same meaning as in section 718.27 of the Revised Code and includes tax properly withheld but subject to refund to the employee.

Section 2. That existing section 718.19 of the Revised Code is hereby repealed.

Section 3. That Section 29 of H.B. 197 of the 133rd General Assembly be amended to read as follows:

Sec. 29. (A) Notwithstanding section 718.011 of the Revised Code, and for the purposes of Chapter 718. of the Revised Code, during the period of the emergency declared by Executive Order 2020-01D, issued on and after March 9, 2020, and for thirty days after the conclusion of that period but before January 1, 2022, any day on which an employee ~~performs~~ is, in

response to the COVID-19 pandemic, required by an employer to 76
perform personal services at a location, including the 77
employee's home, to which the employee is required to report for 78
employment duties because of the declaration or other location 79
that is not the employee's principal place of work shall be 80
deemed to be a day performing personal services at the 81
employee's principal place of work for the purpose of municipal 82
income tax withholding under section 718.011 of the Revised Code 83
and for the purpose of apportioning or situsing the employer's 84
net profit under section 718.02 or 718.82 of the Revised Code. 85

(B) Nothing in this section prohibits an employer from 86
assigning an employee to a new or different work location that 87
may result in a change to the employee's principal place of work 88
during the time period described in division (A) of this 89
section. 90

(C) Nothing in this section prohibits an employer from 91
withholding tax on an employee's qualifying wages in accordance 92
with section 718.03 of the Revised Code. 93

(D) This section does not apply for purposes of 94
determining the location at which a nonresident employee's work 95
was completed, services were performed or rendered, or 96
activities were conducted for the purpose of determining the 97
employee's municipal income tax liability. 98

Section 4. That existing Section 29 of H.B. 197 of the 99
133rd General Assembly is hereby repealed. 100

Section 5. It is the intent of the General Assembly to 101
clarify that Section 29 of H.B. 197 of the 133rd General 102
Assembly is intended to apply only to an employer's municipal 103
income tax withholding responsibilities and to the apportionment 104

or situsing of an employer's net profit, and not for purposes of 105
determining the location at which a nonresident employee's work 106
was completed, services were performed or rendered, or 107
activities were conducted for purposes of determining the 108
employee's municipal income tax liability. 109

Section 6. An employer shall not be assessed any tax, 110
penalty, or interest, including under section 718.27 of the 111
Revised Code, for the failure to withhold municipal income tax 112
from an employee's qualifying wages earned between March 9, 113
2020, and December 31, 2021, if the employer withheld and 114
remitted tax on such wages to the municipal corporation in which 115
the employee's principal place of work is located in accordance 116
with Section 29 of H.B. 197 of the 133rd General Assembly, as 117
enacted by that act and as amended by this act. 118

Section 7. The amendment or enactment by this act of 119
Section 29 of H.B. 197 of the 133rd General Assembly and 120
Sections 5 and 6 of this act is remedial in nature and apply to 121
any municipal income tax withholding obligation incurred, and 122
any qualifying wages earned, between March 9, 2020, and December 123
31, 2021. 124