

ORDINANCE NO. 2024-4

Introduced by Mark Claus

AN ORDINANCE REPEALING AND AMENDING AND RESTATING SECTIONS 185.03(F)(1) AND 185.03(F)(4) UNDER SECTION 185.03 (IMPOSITION OF TAX) OF CHAPTER 185 (INCOME TAX); ; REPEALING AND AMENDING AND RESTATING SECTIONS 185.05(A) AND 185.05(G) UNDER SECTION 185.05 (ANNUAL RETURN; FILING) OF CHAPTER 185 (INCOME TAX), REPEALING AND AMENDING AND RESTATING SECTION 185.18(C) UNDER CHAPTER 185.18 (INTEREST AND PENALTIES) OF CHAPTER 185 (INCOME TAX); AMENDING CHAPTER 185 (INCOME TAX) TO ADD A NEW SECTION 185.03(G) UNDER SECTION 185.03 (IMPOSITION OF TAX) OF THE HURON CODIFIED ORDINANCES; AND AMENDING CHAPTER 185 (INCOME TAX) TO ADD A NEW SECTION 185.27 (ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95) OF THE HURON CODIFIED ORDINANCES; AND DECLARING AN EMERGENCY.

WHEREAS, in 2015 the State of Ohio adopted legislation removing home rule from certain aspects of municipal tax codes effective January 1, 2016; and

WHEREAS, H.B. 33 has further mandated changes to municipal tax codes making it necessary for municipalities to adopt the mandated changes effective no later than January 1, 2024; and

WHEREAS, this Council hereby determined the changes and amendments set forth within this Ordinance are in the best interest of the City of Huron and its citizens, to be effective as of January 1, 2024.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That Section 185.03(F)(1) of Chapter 185 (Income Tax) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows:

SECTION 185.03 IMPOSITION OF TAX

“(F)(1) Except as otherwise provided in division (F)(2) of this Section, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:”

shall be and hereby is repealed in its entirety.

SECTION 2. That a new revised and restated Section 185.03(F)(1) of Chapter 185 (Income Tax), as follows:

SECTION 185.03 IMPOSITION OF TAX

“(F)(1) Except as otherwise provided in divisions (F)(2) and (G) of this Section, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:”

shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 3: That Section 185.03(F)(4) of Chapter 185 (Income Tax) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows:

SECTION 185.03 IMPOSITION OF TAX

“(F)(4) For the purposes of division (F)(1)(c) of this Section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:”

shall be and hereby is repealed in its entirety.

SECTION 4. That a new revised and restated Section 185.03(F)(4) of Chapter 185 (Income Tax), as follows:

SECTION 185.03 IMPOSITION OF TAX

“(F)(4) For the purposes of division (F)(1)(c) of this Section, and except as provided in division (G) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:”

shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 5: That Section 185.05(A) of Chapter 185 (Income Tax) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows:

SECTION 185.05 ANNUAL RETURN; FILING

“(A) An annual income tax return shall be completed and filed with the Municipality by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax imposed by this Chapter, whether or not a tax is due thereon.”

shall be and hereby is repealed in its entirety.

SECTION 6. That a new revised and restated Section 185.05(A) of Chapter 185 (Income Tax), as follows:

SECTION 185.05 ANNUAL RETURN; FILING

“(A) An annual Municipal income tax return shall be completed and filed by every taxpayer for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.”

shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 7: That Sections 185.05(G) of Chapter 185 (Income Tax) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows (refer to Exhibit "A" attached hereto), shall be and hereby is repealed in its entirety.

SECTION 8. That new revised and restated Section 185.05(G) of Chapter 185 (Income Tax), as follows (refer to Exhibit "B" attached hereto), shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 9: That Section 185.18(C) of Chapter 185 (Income Tax) of the Codified Ordinances of the City of Huron, Ohio, which currently reads as follows:

SECTION 185.18 INTEREST AND PENALTIES

"(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this Section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2) (a) With respect to unpaid income tax and unpaid estimated income tax, the Municipality may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the Municipality may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, the Municipality may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure."

shall be and hereby is repealed in its entirety.

SECTION 10. That a new revised and restated Section 185.18(C) of Chapter 185 (Income Tax), as follows:

SECTION 185.18 INTEREST AND PENALTIES

“(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the [Municipality/City/Village] any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2) (a) With respect to unpaid income tax and unpaid estimated income tax, Municipality may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, Municipality may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) (a) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, Municipality may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, Municipality may impose a penalty not exceeding \$25 for each failure to timely file each return, regardless of the liability shown thereon, except that Municipality shall abate or refund the penalty assessed on a taxpayer’s first failure to timely file a return after the taxpayer files that return.”,

shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 11. That Chapter 185 (Income Tax) is hereby amended to add a new Section 183.05(G), as attached hereto and made a part hereof as Exhibit “C”, shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 12. That Chapter 185 (Income Tax) is hereby amended to add a new Section 185.27 (Election to be Subject to R.C. 718.80 to 718.95), as follows:

“SECTION 185.27 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95

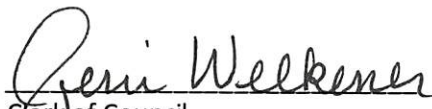
- (A) Municipality hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the ORC for tax years beginning on or after January 1, 2018.
- (B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to 718.95 of the ORC in lieu of the provisions of this Chapter 185.
- (C) “Taxpayer” has the same meaning as in section 718.01 of the ORC, except that “taxpayer” does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the ORC. “Taxpayer” may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.”

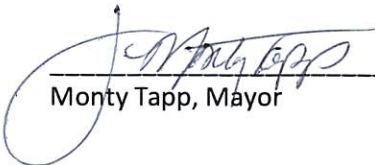
shall be, and hereby is, adopted and thereafter shall be in full force and effect.

SECTION 13. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 14. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare, and it is imperative this Ordinance be effective immediately because Ohio House Bill 33 became effective as of January 1, 2024; **WHEREFORE**, this Ordinance shall be in full force and effect as of February 13, 2024, with an effective date of January 1, 2024.

ATTEST:


Clerk of Council



Monty Tapp, Mayor

ADOPTED: 13 FEB 2024



CHAPTER 185 INCOME TAXES

Section 185.05 ANNUAL RETURN; FILING

- (G) (1) (a) Except as otherwise provided in this Chapter, each individual income tax return required to be filed under this Section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality. No remittance is required if the net amount due is ten dollars or less.
- (b) Except as otherwise provided in this Chapter, each annual net profit return required to be filed under this Section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day (15th) of the fourth month following the end of the taxpayer's taxable year. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality. No remittance is required if the net amount due is ten dollars or less.
- (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the municipal income tax return required under this Chapter. The extended due date of the municipal income tax return required under this Chapter shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- (a) A copy of the federal extension request shall be included with the filing of the municipal income tax return required under this Chapter.
- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return required under this Chapter. If the request is received by the Tax Administrator on or before the date the municipal income tax return required under this Chapter is due, the Tax Administrator shall grant the taxpayer's requested extension.
- (3) If the Ohio tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension of the due date for the filing of the municipal income tax return required under this Chapter. The extended due date of the municipal income tax return required under this Chapter shall be the same as the extended due date of the state income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by this Chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) To the extent that any provision in this division (G) of this Section conflicts with any provision in divisions (N), (O), (P), or (Q) of this Section, the provisions in divisions (N), (O), (P), or (Q) prevail.

CHAPTER 185 INCOME TAXES

Section 185.05 ANNUAL RETURN; FILING

(G)(1) Except as otherwise provided in this Chapter, each return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to Municipality. No remittance is required if the net amount due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of Municipality's income tax return. The extended due date of Municipality's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of Municipality's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of Municipality's income tax return.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's Municipality income tax return. If the request is received by the Tax Administrator on or before the date the Municipality income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of Municipality's income tax return. The extended due date of Municipality's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by Municipality, the Tax Administrator may require taxpayers to file returns and make payments

otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) If a taxpayer receives an extension for the filing of a municipal income tax return under division (G)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice 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 to file the return, whichever occurs first.

If a tax administrator violates division (G)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to \$150.

Division (G)(5) of this section does not apply to an extension received under division (G)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (G)(2) of this section or failed to file for an extension under division (G)(2)(b) of this section.

(6) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

CHAPTER 185 INCOME TAXES

Section 185.03 IMPOSITION OF TAX

"(G)(1) As used in this division:

(a) "Qualifying remote employee or owner" means 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:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means 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.

(c) "Reporting location" means either of the following:

(i) 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;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 185.04 of this Chapter, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) 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;

(ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, 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.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation.

Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (F)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (G)(2):

(a) For the purpose of division (F)(1)(a) of this section, 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.

(b) For the purpose of division (F)(1)(b) of this section, 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.

(c) For the purpose of division (F)(1)(c) of this section, and notwithstanding division (F)(4) of this section, 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.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator 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 in division (F)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 185.04 of this Chapter.”