

Municipal income tax law changes: What you need to know

As teams begin to hit the field in preparation for the upcoming football season, we want to ensure you are also gearing up for the game-changing effective date of House Bill 5's municipal income tax laws. Municipalities are currently amending their existing income tax ordinances to incorporate the new law's provisions, and your business should be prepping now too in order to be ready by year end. Summarized below are just some of the benefits coming your way starting in 2016.

Pass-through entities

If your business is organized as a pass-through entity ("PTE"), the municipal net profits tax will now be imposed at the entity level (unless your municipality is one of a handful that previously voted to tax resident S corporation owners at the shareholder level), with the owner needing to file only in their city of residence. Also, gains and losses that are generated by resident taxpayers' different pass-through entities and their own net profit may offset each other during the year in which such gains and losses were generated to arrive at the total amount of tax due.

NOL carryforward

If your business does not have a profitable year, some relief is coming: starting in 2017 all municipalities must allow businesses to deduct any *new* net operating losses (NOL) and allow a five-year carryforward of those losses. Profits and losses are measured on a 12-month basis simply as an accounting tool used to facilitate the collection of tax revenues. However, businesses are established with the goal of making a profit over the long haul, not simply in any particular 12-month period. When you have a loss, an NOL carryforward is treated as an asset on your balance sheet to help offset future gains. Therefore, the NOL carryforward becomes an economic development tool by allowing businesses to deduct losses and continue to operate, helping you with job retention in down years.

Occasional entry rule

A significant improvement to the "casual entrant" exemption increases the number of days (from 12 to 20 per year) that individuals may work in a non-principal place of business municipality before incurring income tax liability there. Should your employee be there 21 or more days, you will need to withhold in that "other" city from day 21 forward until the end of the calendar year. The new law also defines a day to allocate tax liability to the city where an employee spent the majority of time working that day (you must withhold only to one municipality per calendar day), and provides that the casual entrant rule applies to all compensation. Businesses and cities may continue to work out other agreements as well if both parties agree.

Another major change eliminates the requirement for employers with gross receipts of less than \$500,000 a year to track where their employees are working; instead, these small businesses will simply withhold to the jurisdiction where the principle place of business is located. These businesses must still file net profits returns in every city where they do business, but will owe no tax if the amount due is \$10 or under.

Other common sense changes

If you've done work in a municipality in the past but no longer work there, many cities require you to continue filing tax returns anyway for up to three years. The new law allows you to certify to a municipal tax administrator that you are no longer a taxpayer there. Upon certifying, you are no longer required to

file with that municipality during future taxable years, unless the tax administrator possesses conflicting information or you start working there again.

Taxpayer Bill of Rights

The new law includes the full version of the state's Taxpayer Bill of Rights at the local level, and requires municipalities to publish a summary of the taxpayers' bill of rights and responsibilities online, as well as publish its municipal tax ordinances and regulations. It also aligns municipal return filing dates with state filing dates, and makes consistent with federal, state and current municipal tax law the tax return due date for entities with a fiscal year-end other than a calendar year-end.

Residency changes

The new law prescribes an income tax employer withholding schedule for all municipalities on a monthly vs. quarterly basis depending on your recent withholding amounts. Finally, municipalities are allowed to treat an individual as a resident for income tax purposes only if the individual is domiciled there, and it adopts 25 generally recognized common law factors for determining an individual's domicile.

Municipal Income Tax Webcast

To take a deeper dive into the new law and help you plan NOW for changes that will impact you, your business or your clients, please join us as former Ohio Tax Commissioner Tom Zaino, CPA, JD, Zaino Hall & Farrin LLC, hosts a [webcast](#) on September 28, 2015.