

The Ohio Association of Public Treasurers Hot Topic Seminar ~ Ohio Municipal Income Tax in New Work Environments

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Ohio Municipal Tax ~ New Work Environments

- In response to the COVID-19 pandemic, Ohio law permitted employers to withhold municipal income tax from employee wages as if employees are working in the office, regardless of where they have been performing their work.
- That rule ended December 31, 2021.
- January 1, 2022 we returned to the “old” municipal income tax withholding rules.

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What Are The “Old” Rules?

- Withhold Where Work is Performed
- Occasional Entrant Rule
- Small Employer Rule

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Old Rules – New Schedules

- Fully Remote – withhold for the employee's residence municipality, at the full rate, as the workplace.
- Fully In Office – withhold like it's March 8, 2020.

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Old Rules – New Schedules

- Hybrid schedules, what we are hearing from employers –
 - Withhold day by day where work is performed;
 - Prorate wages between office and home, based on actual or expected schedules and withhold accordingly;
- For wages earned at home, the home municipality is treated like another work location, this is not courtesy residence withholding.

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Potential Impacts

- Who?
 - Everyone – employers; employees; and municipalities
- What?
 - New withholding obligations; employee residence tax impacts; and shifts in municipal revenues
- When?
 - As early as 1Q 2022
 - Refunds in 2023

Municipal Income Tax Shifts - Example

2021

- **Annual Salary:** \$60,000
- **Work Location:** Brecksville
- **Residence Location:** Shaker Heights

Description	Wages	%	Tax Amount
Brecksville Workplace Tax (100%)	\$60,000	2%	\$1,200
Shaker Heights* Residence Tax (After credit)		1.75%	\$1,050
Total Muni Tax			\$2,250

**Shaker Heights Tax rate is 2.25%, however, they give ½% credit for workplace.*

2022

- **Annual Salary:** \$60,000
- **Work Location:** Brecksville (1 Day, 20%)
- **Work and Residence Location:** Shaker Heights (4 Days, 80%)

Description	Wages	%	Tax Amount
Brecksville Workplace Tax (20%)	\$12,000	2%	\$240
Shaker Heights* Workplace Tax (80%)	\$48,000	2.25%	\$1,080
New Amount To Be Withheld			\$1,320
Shaker Heights Residence Tax To Be Paid (Not Withheld)			\$210
New Muni Tax Total			\$1,530

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Other Considerations

- Tax credit or economic development incentives based on a company's payroll
- Impact on current agreements
- Drafting future agreements

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What About Tax Year 2021 Refunds?

- Ohio House Bill 110 made it clear that taxpayers who had tax withheld for the principal place of work municipality in 2021 while they worked from home may obtain a refund.
- What is RITA seeing in terms of 2021 work from home refund requests?

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What About Tax Year 2020 Refunds?

- Ohio House Bill 110 did not address tax year 2020 refunds for taxpayers who had tax withheld for the principal place of work municipality in 2020 while they worked from home.
- Litigation pending throughout the State to answer this question.
- Refund requests suspended.

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Pending Litigation – Tax Year 2020 Refunds:

- *Buckeye Inst. v. Kilgore*, 2021-Ohio-4196 (10th Dist.), *appeal not accepted* – City of Columbus
- *Schaad v. Alder*, 2022-Ohio-340 (1st Dist.), *jurisdiction pending* – City of Cincinnati
- *Curcio v. Hufford*, G-4801 CL-22-1009, Sixth District Court of Appeals, *appeal pending* – Cities of Oregon & Toledo
- *Morsy v. Dumas*, CV-21-946057, Cuyahoga County Common Pleas Court – City of Cleveland

Questions?



Thank You!

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