

**VILLAGE OF ELMORE**

**ORDINANCE NO. 026-2023**

**AN ORDINANCE TO AMEND  
THE MUNICIPAL INCOME TAX CODE  
TO COMPLY WITH OHIO HOUSE BILL 33  
AND DECLARING AN EMERGENCY**

**WHEREAS**, Ohio House Bill 33 made changes to the Municipal Income Tax Code which must be incorporated into the tax code of the Village of Elmore; and,

**WHEREAS**, said changes are to be effective starting January 1, 2024; and,

**WHEREAS**, the Village's income tax code currently in effect must remain unchanged through December 31, 2023;

**Now THEREFORE be it ORDAINED by the Council of the Village of Elmore, Ottawa County, Ohio that:**

**Section 1.** The Codified Ordinances of the Village of Elmore are hereby amended as follows, effective as of January 1, 2024:

See Exhibit A attached hereto and incorporated herein by reference.

**Section 2.** Any portion of the Codified Tax Ordinance of the Village of Elmore which has not been specifically amended herein shall remain in full force and effect.

**Section 3.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and


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of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

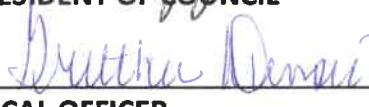
**Section 4.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health and safety to immediately implement changes mandated by State law to our Village Income Tax Ordinance.

**PASSED:**

Vote to suspend the rules	Yeas <u>6</u>	Nays <u>0</u>
Vote on emergency measure	Yeas <u>6</u>	Nays <u>0</u>
To pass	Yeas <u>6</u>	Nays <u>0</u>


Date: 12/11/23 \_\_\_\_\_  
  
PRESIDENT OF COUNCIL

Approved:  \_\_\_\_\_  
MAYOR

 \_\_\_\_\_  
FISCAL OFFICER

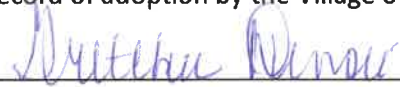
**FISCAL OFFICER'S CERTIFICATE AS TO PUBLICATION.**

This is to certify that publication of the foregoing Ordinance was duly made as provided in the Ohio Revised Code by publication in a newspaper of general circulation in Elmore, Ohio on the following date(s): \_\_\_\_\_.

  
FISCAL OFFICER

**FISCAL OFFICER'S CERTIFICATE AS TO AUTHENTICITY**

I hereby certify that the foregoing Ordinance is a true copy of the aforesaid Ordinance No. \_\_\_\_\_ together with a true and accurate record of adoption by the Village of Elmore, Ohio.

  
FISCAL OFFICER

**Prepared by Mark E. Mulligan, Solicitor for the Village of Elmore, Ohio**

## EXHIBIT A

### **181.03 (11) (O)**

For tax years 2024 and after, the income of individuals under 18 years of age.

### **181.062(A)**

Except as provided in divisions (B)(1) and (I) 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:

(the balance of section 181.062(A) remains unchanged)

### **181.062 (D)**

For purposes of division (A)(3), and except as provided in division (I) of this section, receipts from sales and rentals made and services performed shall be situs to a municipal corporation as follows:

(the balance of section 181.062(D) remains unchanged)

### **181.062(I)**

(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 181.051 of this Ordinance, 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 (1)(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 (1)(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 section 192.062 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 (A) of this section, all of the following apply to a taxpayer that has made the election described in division (1)(2):

(a) For the purpose of division (A)(1) 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 (A)(2) 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 (A) of this section, and notwithstanding division (A)(3) 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 (1)(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 192.051 of this Ordinance.

#### **181.091**

(A) (1) An annual Village 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.

#### **181.094**

(A) 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 a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth 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.

(F) If a taxpayer receives an extension for the filing of a municipal income tax return under division (A), (C) or (E) 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 (F) 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 (F) of this section does not apply to an extension received under division (A) 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 (A) of this section or failed to file for an extension under division (C) of this section

**181.10(C)**

(4) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars 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 a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(5) 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.

**181.21 ELECTION TO BE SUBJECT TO R.C. 718.80 TO 718.95**

(A) Village 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 Ordinance.

(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.