City of Greenville
Taxpayer's Rights & Responsibilities

The purpose of this document is to provide a summary of the Taxpayer's Rights and Responsibilities to comply with Ohio Revised Code ("ORC") Chapter 718 and the City of Greenville Municipal Income Tax Ordinance. Full text of these Rights and Responsibilities are available in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, & 5717.03 of the ORC.

1.) LOCAL BOARD OF TAX REVIEW If an assessment is issued by the tax administrator ("Tax Administrator") of the City of Greenville ("City"), an appeal of the assessment can be made to the Local Board of Tax Review ("Local Board"). The request shall be in writing, shall specify the reason(s) why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after receiving the assessment. The appeal must be signed, dated, sealed and can be mailed or hand delivered to: Local Board of Tax Review, 100 Public Square, Greenville, OH 45331.

a. The Local Board shall schedule a hearing within 60 days after receiving an appeal of the assessment, unless the taxpayer requests additional time or waives a hearing. The taxpayer may appear before the Local Board with representation by an attorney, CPA, or other representative.
b. The hearing may be continued as jointly agreed but must be completed within 120 days after the first day of the hearing, unless the parties agree otherwise.
c. The Local Board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Local Board shall issue a final determination on the appeal within 90 days after the final hearing. The Local Board must send a copy of its final determination by ordinary mail to all parties to the appeal within 15 days after its issuance. The taxpayer or the Tax Administrator may appeal the Local Board's final determination as provided in ORC 5717.011.

(Source ORC 718.11)

2.) FILING OF NOTICE OF APPEAL

a. Appeals from a final determination of the Local Board may be taken by the taxpayer or the Tax Administrator to the Ohio Board of Tax Appeals ("Ohio Board") or a court of common pleas as otherwise provided by law.
b. A notice of appeal filed with the Ohio Board shall contain a short and plain statement of the claimed errors in the final determination of the Local Board showing that the appellant is entitled to relief and a demand for the relief to which the appellant claims to be entitled. An appellant may amend the notice of appeal once as a matter of course within 60 days after certification of the transcript (see below). Otherwise, an appellant may amend the notice of appeal only after receiving leave of the Ohio Board or the written consent of each adverse party.
c. Upon the filing of a notice of appeal with the Ohio Board, the Local Board shall certify to the Ohio Board a transcript of the record of the proceedings before it, together with all evidence considered by it in connection therewith. Such appeals may be heard by the Ohio Board at its office in Columbus or in the county where the appellant resides, or it may cause its examiners to conduct such hearings and to report to it their findings for affirmation or rejection. The Ohio Board may order the appeal to be heard upon the record and the evidence certified to it by the Tax Administrator, but upon the application of any interested party, the Ohio Board shall order the hearing of additional evidence, and the Ohio Board may make such investigation concerning the appeal as it considers proper.
d. If an issue being appealed under this section is addressed in the City's ordinances or regulations, the Tax Administrator, upon the request of the Ohio Board, shall provide a copy of the ordinance or regulation to the Ohio Board.

(Source ORC 5717.011)

3.) DECISION OF BOARD OF TAX APPEALS

a. A decision of the Ohio Board shall be entered of record on the journal together with the date when the order is filed with the secretary for journalization.
b. The decision and the date of the entry thereof upon the Ohio Board's journal shall be sent by the Ohio Board to all persons who were parties to the appeal before the Ohio Board.
c. The order of the Ohio Board may affirm, reverse, vacate, modify, or remand the determinations, findings, or order complained of in the appeal determined by the Ohio Board, and the Ohio Board's decision shall become final and conclusive for the current year unless reversed, vacated, or modified as provided in ORC 5717.04. When an order of the Ohio Board becomes final, the tax commissioner and all officers to whom such decision has been sent shall make the changes in their tax lists or other records which the decision requires.

(Source ORC 5717.03)

4.) LIMITATIONS

a. Civil actions to recover municipal income taxes, penalties, and interest on municipal income taxes shall be brought within the later of 3 years after the tax was due or the return was filed; or 1 year after the conclusion of the qualifying deferral period, if any.
b. Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within 3 years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of 25% or more of income required to be reported, prosecutions may be commenced within 6 years after the commission of the offense.
c. A claim for a refund of municipal income taxes shall be brought within 3 years after the tax was due or paid, whichever is later.
d. Interest shall be paid on any overpayment of municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be owed on the refund. For the purpose of computing the interest due on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return is due, without regard to any extension of time for filing that return. Interest shall be paid at the rate described in ORC 718.27(A)(5).
e. Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall file an amended municipal return showing income subject to the municipal income tax based upon such final determination, and pay any additional municipal income tax shown due or make a claim for refund of any overpayment, unless the tax or overpayment is $10 or less.
f. Notwithstanding the fact that an appeal is pending, a taxpayer may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the City does not prejudice any claim for refund upon final determination of the appeal. If upon final determination of the appeal, an error in the assessment is corrected so that the amount due from the party assessed under the corrected assessment is less than the amount paid, a refund shall be issued in the amount of the overpayment, as provided by ORC 718.19, along with interest, if applicable.
g. No civil action to recover municipal income tax, related penalties, or interest shall be brought during either of the following time periods: (i) the period during which a taxpayer has a right to appeal the imposition of that tax, interest, or those penalties; or the period during which an appeal related to the imposition of that tax, interest, or those penalties is pending.

(Source ORC 718.12)

5.) REQUEST FOR REFUNDS

a. Upon receipt of a refund request, the Tax Administrator shall refund overpayments or amounts paid erroneously of more than $10.
b. Requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator, within 3 years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund. On filing of the refund request, the Tax Administrator shall determine the amount of refund due, if any, and certify such amount for payment. The Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied, except when the refund request is included within the taxpayer's originally filed annual income tax return. Under the latter scenario, the Tax Administrator shall notify the taxpayer in writing of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under ORC 718.11.
c. A request for a refund that is received after the last day for filing shall be considered timely filed if: the request is delivered by the postal service and the earliest postmark on the cover in which the request is enclosed is not later than the last day for filing the request; the request is delivered by the postal service and the only postmark 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 7 days of such last day; or the request is delivered by the postal service, no postmark date was affixed or the date of the postmark affixed is not legible, and the request is received within 7 days of the last day for the request.

(Source ORC 718.19)

6.) VERIFICATION OF ACCURACY OF RETURNS

a. The Tax Administrator may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of ORC Chapter 718, for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due. Upon written request by the Tax Administrator, every employer, taxpayer, or other person is required to furnish the opportunity for the Tax Administrator to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

b. The records and other documents shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of 6 years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the City or for the withholding of such tax.

c. The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination.

d. No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.

(Source ORC 718.23)

7.) AUDITS

a. At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and this statement of the taxpayer's rights. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

b. Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

c. At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer. A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner.

d. A taxpayer may record, electronically or otherwise, the audit examination.

e. The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

f. If the Tax Administrator fails to substantially comply with the provisions set forth in ORC 718.36, the Tax Administrator, upon request by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

(Source ORC 718.36)

8.) ACTIONS AGAINST THE TAX ADMINISTRATOR OR MUNICIPALITY

a. A taxpayer aggrieved by an action or omission of the Tax Administrator, except for opinions or other information functions of the Tax Administrator, may bring an action against the City for damages in the Court of Common Pleas of Darke County if all of the following apply: (1) in the action or omission the Tax Administrator frivolously disregards the provisions and limitations of ORC Chapter 718 or a rule or instruction of the Tax Administrator; (2) the action or omission occurred with respect to an audit or an assessment and the review and collection proceedings connected with the audit or assessment; and (3) the Tax Administrator did not act manifestly outside the scope of employment and did not act with malicious purpose, in bad faith, or in a wanton or reckless manner.

b. Upon a finding of liability on the part of the City as described above, the City shall be liable to the taxpayer for the compensatory damages sustained by the taxpayer as a result of the Tax Administrator's action or omission and the taxpayer's litigation costs and attorneys' fees.

c. In awarding any damages, the court shall take into account the negligent actions or omissions, if any, on the part of the taxpayer that contributed to the damages, but shall not be bound by the provisions of ORC 2315.32 to 2315.36.

d. If it appears to the court that a taxpayer's conduct in the proceedings is frivolous, the court may impose a penalty against the taxpayer in an amount not to exceed $10,000 which shall be paid to the general fund of the City.

(Source ORC 718.37)

9.) REQUEST FOR OPINION OF THE TAX ADMINISTRATOR

a. An "opinion of the Tax Administrator" means an opinion issued with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

b. A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, provided the conditions set forth in ORC 718.36(B) are satisfied; however, the Tax Administrator may refuse to offer an opinion on any request received.

c. An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates: (1) the effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later; (2) the effective date of any amendment or enactment of a relevant section of the Revised Code, uncodified state law, or the City's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator; (3) the date on which a court issues an opinion establishing or changing relevant case law with respect to the Revised Code, uncodified state law, or the City's income tax ordinance; (4) if the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations; (5) the effective date of any change in the taxpayer's material facts or circumstances; or (6) the effective date of the expiration of the opinion, if specified in the opinion.

d. A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

e. If the Tax Administrator provides written advice, the opinion shall include a statement that the tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section; it is the duty of the taxpayer to be aware of such changes.

f. An opinion of the Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the tax administrator of any other municipal corporation.

g. The Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

h. An opinion of the Tax Administrator issued under this section may not be appealed.

(Source ORC 718.38)