

**ORDINANCE NO. 26-2022**

**AN ORDINANCE AMENDING SECTION 891.03, IMPOSITION OF TAX OF THE CODE OF ORDINANCES OF THE CITY OF TRENTON**

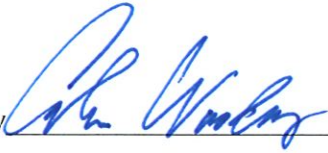
WHEREAS, it is the desire of City Council to amend the codified ordinances as it relates to residents of Trenton aged under 18, and eliminating their need to file for income taxes; and

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

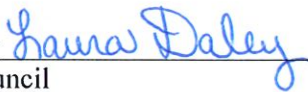
**SECTION 1:** That Section 891.03 of the Code of Ordinances of the City of Trenton, Ohio is hereby amended in its entirety pursuant to EXHIBIT A.

**SECTION 2:** That this ordinance and the attached exhibit provides solely the amendment of the age of which residents must file taxes, being raised from sixteen (16) to eighteen (18) years of age, and does not amend any other aspect of the City's tax code.

PASSED 8/18/22  
AYES 6 Nays 1  
ABSENT 0  
First Reading 07-21-22  
Second Reading 08-04-22  
Third Reading 08-18-22

Calvin Woodrey   
Mayor  
Rules Suspended \_\_\_\_\_  
AYES \_\_\_\_\_ Nays \_\_\_\_\_  
ABSENT \_\_\_\_\_

ATTEST:

Laura Daley   
Clerk of Council

CERTIFICATE

I, the undersigned Clerk of Council, hereby certify that the above Ordinance is a true and correct copy as passed by the Council of the City of Trenton on the 18th day of August, 2022 and that at least a majority of the elected members voted in the affirmative on said motion.

  
Clerk of Council

*[Faint circular stamp, likely a city seal or official stamp]*

### 891.03 IMPOSITION OF TAX.

(a) Rate and Income Taxable. Subject to the provisions of Section 891.14, an annual tax for the purposes specified in Section 891.01 shall be imposed on and after July 1, 1989, at the rate of one and one-half percent per annum, upon the following:

(1) All salaries, wages, commissions and other compensation earned on and after July 1, 1989, by nonresidents for sales made, work done or services performed or rendered in the City; (qualifying wages are those which are defined in IRC section 3121(a), generally the Medicare wage in Box 5 of the Federal Form W-2, with an exception to include exempt employees hired before April 1, 1986. IRC section 125 wages are not included in the Federal definition of Medicare wages and do not need to be deducted from Box 5);

(2) All salaries, wages, commissions and other compensation earned on and after July 1, 1989, by residents of the City; (qualifying wages for withholding are those which are defined in IRC section 3121(a), generally the Medicare wage in Box 5 of the Federal Form W-2, with an exception to include exempt employees hired before April 1, 1986. IRC section 125 wages are not included in the Federal definition of Medicare wages and do not need to be deducted from Box 5);

(3) A. On the portion attributable to the City of the net profits earned on and after July 1, 1989, by all resident unincorporated businesses, pass through entities, professions or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City;

B. On the portion of the distributive share of the net profits earned on and after July 1, 1989, by a resident partner or owner of a resident unincorporated business entity or pass through entity not attributable to the City and not levied against such unincorporated business entity or pass through entity;

(4) A. On the portion attributable to the City on the net profits earned on and after July 1, 1989, by all nonresident unincorporated businesses, pass through entities, professions or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City;

B. On the portion of the distributive share of the net profits earned on and after July 1, 1989, by a resident partner or owner of a nonresident unincorporated business entity or pass through entity not attributable to the City and not levied against such unincorporated business entity or pass through entity.

(5) On the portion attributable to the City of the net profits earned on and after July 1, 1989, by all corporations that are not pass through entities derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(6) A taxpayer subject to any municipal corporation's tax on the net profit from a business or profession may file any municipal income tax return or estimated municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(b) Businesses Both in and Outside the Municipal Boundaries; Allocation of Net Profits. Where a person conducts a business both within and outside the City, the portion of the entire net profits of such business to be allocated as having been made within the City may be determined from the records of such business, if such business had bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the City, or at the option of the taxpayer may be determined by the following formula, which shall be used if such taxpayer has no bona fide records showing net profits from business activities within the City, subject however, to the provisions of subsection (d) hereof and the rules and regulations as set forth in this chapter.

(1) Multiply the entire net profits of the business by a business allocation percentage to be determined by:

A. Ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the City, during the period covered by the return, is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period.

B. Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the City, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.

C. Ascertaining the percentage which the total wages, salaries, commissions and other compensation paid, during the period covered by the return, to employees for services performed in the City is of the total wages, salaries, commissions and other compensation paid during such period to all employees within and outside the Municipality, excluding compensation described in subsection (e) hereof.

D. Adding together the percentages determined in accordance with subsections (b)(1)A., B. and C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

1. A factor is applicable even though it may be allocable entirely in or outside the City.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Commissioner, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper allocation. Should the taxpayer object to or disagree with the Tax

Commissioner's decision, an appeal may be filed with the Board of Review which shall have the power to adjust, modify, or overrule such decision by the Commissioner of Taxation.

(c) A corporation whose sole business location is within Trenton shall be considered a resident Trenton corporation and shall disregard the business allocation formula and pay the tax on the entire net profits of the corporate entity, with the allowance of credit for tax paid to other municipalities (in accordance with Section 891.14) for work done or services performed in those municipalities.

(d) Operating Loss Carry-Forward.

(1) The portion of a net operating loss, based on income taxable under the chapter, sustained in the taxable year beginning after January 1, 1990, allocable to the City may be applied against the portion of succeeding years allocable to the City, until exhausted, but in no event for more than five years immediately following the year in which the loss was sustained. No portion of a net operating loss shall be carried back against the net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(3) The Commissioner shall provide for by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(4) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in subsection (c)(1) hereof. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another tax entity) may be used to offset the profits of another for purposes of arriving at overall net profits.

(5) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.

(e) Consolidated Returns.

(1) Consolidated returns shall be accepted in accordance with rules and regulations prescribed by the Commissioner of Taxation, from any affiliated group of corporations subject to the Trenton tax, if that affiliated group filed for the same tax reporting period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

(3) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the City constituting a portion only of its total business, the Commissioner of Taxation shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Commissioner of Taxation finds net profits are not properly allocated to the City by reason of transactions with stockholders, or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other methods, he shall make allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

(f) Exclusions. The provisions of this chapter shall not be construed as levying a tax upon the following:

(1) Poor relief, welfare benefits, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations, long term disability benefits which are excluded from the Medicare taxable wages on Federal Form W-2.

(2) Proceeds of insurance paid by reason of the death of the insured, or pensions, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived, workers' compensation insurance, social security benefits, qualified retirement plans as defined by the Internal Revenue Service, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.

(5) Personal earnings of all persons under sixteen years of age.

(6) Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(7) Alimony received.

(8) Compensation for personal injuries or for damage to property by way of insurance or otherwise.

(9) Interest and dividends from intangible property.

(10) Military pay and allowances received as a member of the Armed Forces of the United States. In the case of members of the National Guard, Air National Guard, Organized Reserves and Air Reserves, this exclusion shall apply only to their drill and flight pay.

(11) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio R.C. 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities. Any such association or organization not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this chapter on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit. Where such nonprofit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to the City under the method authorized in subsection (b) hereof.

(12) If exempt for Federal income tax purposes, fellowship and scholarship grants are excluded from City income tax.

(13) Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold City tax from that compensation.

(14) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Ohio R.C. Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through Trenton, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in Trenton, or the headquarters of the authority or commission is located within Trenton.

(15) The City shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the City on twelve or fewer days in a calendar year unless one of the following applies:

A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City.

(16) The income of a public utility when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30, except starting January 1, 2002, the income of an electric company, telephone company, or combined company, as defined in Ohio R.C. 5727.01, may be taxed by a municipal corporation subject to Ohio R.C. Chapter 5745.

(17) Effective August 1, 2007 (ORC Ch. 718), compensation paid to a person employed within the boundaries of a United States Air Force base under jurisdiction of the United States Air Force that is used for the housing of members of the United States Air Force and is a center for Air Force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, municipal income tax shall be payable only to the City.

(18) If an individual's taxable income includes income against which the taxpayer has taken a Federal Schedule A deduction for Federal income tax purposes as reportable on the taxpayer's Form 2106, the deduction as allowed on the Federal Schedule A shall be allowable against such income as reported to the City.

(19) The City shall not tax parsonage allowance, which is the rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.

(g) Inclusions. The following items, which are not intended to constitute an all-inclusive list but rather shall be considered examples of taxable income, are subject to the tax imposed by this chapter:

(1) Salaries, wages, bonuses and incentive payments earned by an individual, whether directly or through an agreement and whether in cash or in property, for services rendered during the tax period as:

A. An officer, director or employee of a corporation (including charitable and other nonprofit organizations), joint stock association or joint stock company;

B. An employee (as distinguished from a partner or member) of a partnership, limited partnership or any form of unincorporated enterprise owned by two or more persons;

C. An employee (as distinguished from a proprietor) of a business, trade or profession conducted by an individual owner;

D. An officer or employee (whether elected, appointed or commissioned) of the United States government or any of its agencies; of the State of Ohio or any of its agencies or political subdivisions; or of any foreign country or dependence as provided in this section;

E. An employee of any other entity or person, whether based upon hourly, daily, weekly, semi-monthly, monthly, annually, unit of production or piece-work rates; and whether paid by an individual, partnership, association, corporation

(including charitable and other nonprofit corporations), governmental administration, agency, authority, board, body, branch, bureau, department, division, subdivision, section or unit or any other entity;

(2) Commissions earned by an individual directly or through an agent and whether in cash or in property for services rendered, regardless of how computed, or by whom or wheresoever paid.

A. If amounts received as a drawing account exceed the commissions earned and the excess is not subject to the demand of the employer for repayment, the tax is payable on the amounts received as a drawing account.

B. Amounts received from an employer for expenses and not as compensation, and used as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his/her gross income for the purpose of determining his/her net profits taxable under Federal law and the employee is not required to include such receipts as income on his/her Federal tax return.

C. If commissions are included in the net earnings of the trade, business, profession, enterprise or activity, carried on by an unincorporated entity of which the individual receiving such commission is owner or part-owner and if it were subject to the tax under subsections (a)(3) or (a)(4) hereof, it shall not be taxed under subsection (a)(1) hereof. In such case such net earnings shall be taxed under subsection (a)(3) hereof.

(3) Strike pay.

(4) Non-employee compensation.

(5) Fees, unless such fees are properly includable as part of the net profits of a trade, business or enterprise regularly carried on by an unincorporated entity owned or partly owned by such individual and such net profits are subject to the tax under subsection (a)(2) hereof.

(6) Other compensation including but not limited to tips, bonuses, severance pay, gifts and prizes connected with employment.

(7) Employer-paid premiums for group term life insurance to the extent taxable for Federal income tax purposes.

(8) Sick pay whether paid by the employer to the employee or through a third party.

(9) Disability pay whether paid by the employer to the employee or through a third party.

(10) Contributions made by or on behalf of employees to tax deferred annuity plans (401k Plans and other deferred compensation plans).

(11) Employee contributions to a retirement plan "picked up" by the employer.

(12) Fellowships, scholarships, stipends and grants to the extent that they are taxable for Federal income tax purposes.

(13) Payments made to employees as vacation wages.

(14) Incentive payments, no matter how described, including but not limited to payments to induce early retirement.

(15) Payments made to employees under a wage continuation plan during period of disability or sickness.

(16) Value added of commuting automobile mileage.

(17) Trusts not made pursuant to employee's retirement.

(18) Where compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

A. In the case of domestics and other employees who are required to live at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

B. Housing for clergy shall not be considered as wages or compensation earned.

(19) All other earned compensation.

(20) Supplemental unemployment pay (sub pay).

(21) Payments to an employee by an employer as separation or severance payouts (including, but not limited to severance pay, termination pay and early retirement incentives) and reportable as earned income (including, but not limited to sick pay and vacation pay) are taxable when paid if applicable tax has not previously been paid. Ongoing retirement benefits such as qualified pension payments are exempt from the Trenton income tax. Payouts representing deferred amounts will be taxed (at Trenton's current tax rate) proportionate to the amounts earned in Trenton.

(22) Payments made to employees for moving or relocation in excess of Federal allowance.

(23) Gambling winnings as reported on IRS Form W-2G, Form 5743 and or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes, and lottery winnings.

(24) Contributions of (or premiums or other amounts paid by) the employer in the case of nonqualified plans are taxable when made and reported on IRS Form W-2 or Form 1099.

(25) Any amount arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option.

(Ord. 13-2015. Passed 12-17-15.)