

5703-1-15

**Use of Ohio business gateway by municipal income taxpayers .****(A) As used in this rule:**

(1) "Authorized representative of the taxpayer" or "taxpayer's authorized representative" means any of the following:

(a) If the taxpayer is a corporation: an officer, chief executive officer, chief operating officer, chief financial officer, tax manager, or tax director.

(b) If the taxpayer is a limited liability company: a member, general manager, chief executive officer, chief operating officer, chief financial officer, tax manager, or tax director

(c) If the taxpayer is a partnership: a general partner, general manager, chief executive officer, chief operating officer, chief financial officer, tax manager, or tax director.

(d) If the taxpayer is not a corporation, limited liability company, or partnership: any individual having responsibilities, to or for the taxpayer, which are similar to the responsibilities of any one or more individuals listed in paragraph (A)(1)(a) of this rule.

(2) "Municipal tax administrator" means the individual charged with the direct responsibility for administering a tax on income where the tax is levied by a municipal corporation. "Municipal tax administrator" includes any employees or designees of the municipal tax administrator and also includes third parties, such as banking partners, which are responsible for the administration of municipal income taxes.

(3) "OBG administrator" means the individual charged with the direct responsibility for administering the Ohio business gateway, which is defined in division (A) of section 718.051 of the Revised Code as the online computer network system, initially created by the department of administrative services under section 125.30 of the Revised Code, that allows private businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system. "OBG administrator" also includes any agents, employees or third parties, such as service providers.

(4) Every other term and phrase used in this rule has the same meaning as when used in the same context in Chapter 718. of the Revised Code.

(B) For taxable years beginning on or after January 1, 2005 taxpayers may use the Ohio business gateway to file municipal income tax returns and to make payment of the tax shown to be due on such returns. A taxpayer's use of the Ohio business gateway does not limit or remove the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(C)

(1) The OBG administrator shall establish, and revise as necessary, terms of service which the Ohio business gateway shall provide to each municipality in connection with taxpayers' use of the Ohio business gateway to file municipal income tax returns and to make payment of amounts shown to be due. Such terms of service will encompass policies and procedures which the OBG administrator reasonably finds necessary for the proper and efficient administration of sections 718.05 and 718.051 of the Revised Code. The OBG administrator shall publish, in a format which the OBG administrator shall reasonably select, the terms of service.

(2) By way of illustration and not limitation, the OBG administrator shall consider the following items when establishing and revising the terms of service:

(a) Banking information.

(b) National Automated Clearing House Association ("NACHA") files.

(c) Tax data records and activity report files.

(d) Secure electronic mailboxes.

(e) Customer service.

(f) Electronic signatures.

(3)

(a) In accordance with the procedure set forth in paragraph (C)(4) of this rule the municipal tax administrator for each municipality shall timely provide to the OBG administrator the annual municipal profile certification. Within thirty days after the OBG administrator receives the municipal profile certification, the OBG administrator shall update or cause to be updated the Ohio business gateway to reflect the information set forth in the municipal profile certification.

(b) Generally, if any change or changes to the information the municipal tax administrator provided in the annual municipal profile certification occur subsequent to the date of the profile certification, then the municipal administrator must submit, in writing, an updated municipal profile certification at least thirty days prior to the desired effective date. Within thirty days after the OBG administrator receives the updated municipal profile certification, the OBG administrator shall revise, or cause to be revised, the Ohio business gateway to reflect such change or changes.

If a change or changes needs to be made before the thirty day period, i.e., an emergency levy and tax rate change, or a change in the financial institution, then the municipal administrator may contact the OBG administrator using any form of telecommunications at least ten days prior to the desired effective date. For this type of request, the municipal administrator must provide an updated municipal profile certification within ten days.

(c) With respect to paragraphs (C)(3)(a) and (C)(3)(b), changes that affect municipal banking relationships may require additional time to implement and, therefore, may not be completed by the OBG administrator within the thirty day period. Such changes require the OBG administrator to notify and coordinate efforts with third parties, e.g. the municipality banking partner. Depending on the nature and circumstances associated with the banking relationship requested change, the additional time required may vary.

(d)

(i) If for any reason or reasons the municipal tax administrator does not timely and accurately make the certification or certifications required by paragraph (C)(3) of this rule, or if for any reason or reasons the OBG administrator does not timely and accurately revise or does not cause to be revised timely and accurately the Ohio business gateway to reflect such change or changes, (even if the municipal tax administrator timely and accurately makes the certification or certifications), then no taxpayer using the Ohio business gateway shall be liable for any penalty, fee, fine, or other similar charge with respect to any qualifying additional tax which the taxpayer must pay. Nothing in this paragraph exempts the taxpayer from liability for the qualifying additional tax and the interest computed thereon.

(ii) For purposes of paragraph (C)(3) of this rule, "qualifying additional tax" means the difference between (1) the tax, if any, which the Ohio business gateway would have shown to be due to the municipality, had the municipal tax administrator timely and accurately made the revised certification or certifications required by paragraph (C)(3) of this rule and had the OBG administrator time and accurately revised or caused to have been timely and accurately revised the Ohio business gateway to reflect such change or changes, and (2) the tax, if any, which the Ohio business gateway showed to have been due to that municipality.

(4) Not less than once per calendar year, the OBG administrator shall request, in a

format that the OBG administrator shall reasonably select, that each municipal administrator complete and return within forty-five days the municipal profile certification for the requested calendar year. This municipal profile certification will remain in effect until an updated municipal profile certification is submitted.

The municipal profile certification shall request information which the OBG administrator reasonably finds necessary for the proper and efficient administration of section 718.05 and 718.051 of the Revised Code. By way of illustration and not limitation, the municipal profile certification shall request all of the following information:

- (a) Municipal income tax rate;
- (b) Municipal income tax administration information;
- (c) Municipal income tax return information; and
- (d) Banking partner information.

(D)

- (1) Immediately prior to filing electronically any municipal income tax return, an authorized representative of the taxpayer shall provide an electronic signature described in paragraph (D)(2) of this rule. Immediately prior to the authorized representative's providing the electronic signature, the authorized representative of the taxpayer shall have the opportunity to read the penalty for perjury statement described in paragraph (D)(3) of this rule.
- (2) An electronic signature is an electronically transmitted signal signifying that the authorized representative of the taxpayer who caused the electronic transmission acknowledges and agrees that such electronically transmitted signal has the same legal impact and implications as the authorized representative's handwritten signature.
- (3) By way of online computer networking, the Ohio business gateway shall make available for viewing by the authorized representative of the taxpayer a penalty for perjury statement setting forth that (1) the authorized representative has examined the information provided electronically in connection with the use of the Ohio business gateway to file the taxpayer's municipal income tax return, (2) to the best of the authorized representative's knowledge and belief the information provided is true, correct, and sufficient for the electronic transmission of a complete municipal income tax return, (3) the authorized representative of the taxpayer warrants that s/he has the authority to submit electronically the municipal income tax return, and (4) the authorized representative of the taxpayer acknowledges that the making and transmitting of an electronic signature has the same legal impact and

implications as would the authorized representative's handwritten signature.

(E) For purposes of this section, "date" is based on the date and time recorded by the Ohio business gateway which uses the U.S. eastern standard time zone.

(1)

(a) The date, as defined in this paragraph, on which the taxpayer's authorized representative electronically submits, by way of the Ohio business gateway, income tax return information for a municipality constitutes the date on which the taxpayer files such information with that municipality. At the time the taxpayer's authorized representative electronically submits, by way of the Ohio business gateway, income tax return information for a municipality, the OBG administrator shall make available in printable electronic format to the taxpayer an acknowledgment of the date on which the taxpayer files such information with that municipality. Such acknowledgment also may be obtained subsequent to the filing of the information for a period of at least three years from the date the information is filed.

(i) A municipal corporation's receipt on a subsequent date of such information shall not affect the filing date and, subject to paragraphs (E)(1)(a)(ii) and (iii) of this rule, the imposition of penalties, if any, for failure to file timely shall be based upon the date set forth in the acknowledgment described in division (E)(1)(a) of this rule.

(ii) Upon request by the municipal tax administrator, the taxpayer must produce the acknowledgment described in paragraph (E)(1)(a), and the taxpayer's failure for any reason to produce the acknowledgment shall create a rebuttable presumption that the taxpayer did not electronically submit to the municipality, by way of the Ohio business gateway, income tax return information.

(iii) If the municipal corporation does not electronically receive the taxpayer's tax return information within fifteen days after the date constituting the filing date pursuant to paragraph (E)(1)(a) of this rule and if at any subsequent time the municipal tax administrator requests that the taxpayer provide to the municipal tax administrator a paper copy of the income tax return information that the authorized representative of the taxpayer previously submitted electronically by way of the Ohio business gateway, the taxpayer shall provide to the municipal tax administrator the paper copy. The taxpayer's failure for any reason to so provide the paper copy shall create a rebuttable presumption that the taxpayer did not electronically submit to the municipality, by way

of the Ohio business gateway, income tax return information.

(iv) The taxpayer's inability or refusal to pay all or any portion of the tax, if any, shown to be due or the failure, in whole or in part, of the ACH debit/credit transmission of the electronic payment of all or any portion of the tax, if any, shown to be due shall not affect the filing date.

(b) Except as set forth in paragraphs (E)(1)(b)(ii) and (iii) of this rule, the date, as defined in this paragraph, which the authorized representative of the taxpayer, by way of the Ohio business gateway, electronically designates to be the date of the payment of estimated income taxes, extension payments, and any amount shown to be due on the municipal income tax return constitutes the date of payment solely for purposes of imposing interest, if any, and penalties, if any for failure to pay timely. At the time the authorized representative of the taxpayer electronically designates, by way of the Ohio business gateway, the date of payment of any amount described in this paragraph the OBG administrator shall make available in printable electronic format to the taxpayer an acknowledgment of that date.

(i) Except as set forth in paragraphs (E)(1)(b)(ii) and (iii) of this rule, the municipal corporation's receipt on a subsequent date of any payment described in paragraph (E)(1)(b) of this rule shall not affect the payment date solely for purposes of imposing interest, if any, and penalties, if any for failure to pay timely.

(ii) Upon request by municipal tax administrator, the taxpayer must produce the acknowledgment described in paragraph (E)(1)(b) of this rule, and the taxpayer's failure for any reason to produce the acknowledgment shall create a rebuttable presumption that the taxpayer did not electronically pay by way of the Ohio business gateway to the municipality the amount or amounts described in paragraph (E)(1)(b) of this rule.

(iii) Paragraph (E)(1)(b)(i) does not apply to the extent that (1) there is a failure, in whole or in part, of the ACH debit/credit transmission of the electronic payment of all or any portion of the tax, if any, shown to be due and (2) the failure is on account of error or omission by any person or persons or entities other than the OBG administrator, the municipal tax administrator of the municipality to which the taxpayer had electronically designated payment of tax, and financial institutions and banking clearing houses used by, or are designated for the use by, the OBG administrator or by the municipal tax administrator in connection with the ACH debit/credit transmission of the electronic payment of all or any

portion of the tax, if any, shown to be due by the taxpayer.

(2) Nothing in this rule precludes any municipal corporation from requiring that the taxpayer submit by land mail, by courier, or by hand delivery other documents and any copies of internal revenue service forms the receipt of which the municipal tax administrator deems necessary for the filing of a complete municipal income tax return. The OBG administrator will attempt to notify the taxpayer if the municipality requires copies of the Internal Revenue Service forms.

(F)

(1) The taxpayer shall not be liable to a municipality for failure-to-timely-file penalties if (1) in accordance with paragraph (E)(1)(a) of this rule, the taxpayer submits the income tax return information by the due date, or extended due date, if any, for filing the municipal income tax return and (2) no later than fifteen days after that due date, or extended due date, if any, the taxpayer submits by land mail, by courier, or by hand delivery the documents and the copies of internal revenue service forms described in paragraph (E)(2) of this rule.

(2) For purposes of computing the period of time upon which interest, if any, shall be computed on any municipal income tax refund due to a taxpayer, no municipality shall be required to consider any period of time prior to the latest of the following three dates: (1) the date on which the taxpayer files in accordance with paragraph (E)(1)(a) of this rule the municipal income tax information, (2) the date on which the taxpayer submits by land mail, by courier, or by hand delivery the documents and the copies of internal revenue service forms described in paragraph (E)(2) of this rule, and (3) the due date, or extended due date, if any, for filing the municipal income tax return.

(G) Each municipality shall be responsible for detecting and appropriately responding to errors, omissions, and fraud with respect to electronically submitted municipal income tax return information. The state, its employees and its agents shall not be liable for, and shall have no obligation to reimburse or indemnify any person or any municipality for any reason which includes but is not limited to (1) electronically submitted errors, omissions or fraudulent statements on the municipal income tax return, and (2) a municipality's failure to detect and appropriately respond to errors, omissions and fraud. Specifically, the state is not responsible for any (1) resulting damages, (2) illegally or erroneously paid refunds, (3) underpaid or unpaid taxes, and (4) any and all other consequences directly or indirectly arising from the circumstances set out in this paragraph.

Effective:

R.C. 119.032 review dates: Exempt

WITHDRAWN ELECTRONICALLY

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Certification

12/06/2006

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Date

Promulgated Under:	5703.14
Statutory Authority:	5703.05
Rule Amplifies:	718.051