

January 20, 2016

## POTENTIAL GOOD NEWS FOR MINISTERS

### Ohio Ministries Friends:

This week I was informed by the Assemblies of God state pastor that the Ohio House Bill 95 may afford an exemption for “self-employment” wages earned in ministry, at the municipal tax level. If you paid municipal income tax on from ministry income you may be **entitled to a full refund from your municipality of taxes paid for clergy income for past years!!**

At the outset, let me encourage you to contact your tax preparer or CPA if you have one. If you don't, and if you file your own taxes, you may wish to contact your local municipality for further instructions. I am neither a tax preparer nor do I play one on TV, so I am compiling this *Mail Chimp* article with a degree of hesitation. I also realize that this email will tempt many of you to call our office for advice. We always love to hear from the pastors in our state, however, **please know that this email contains ALL the information that we know. Your best and most expedient next call is to your tax preparer of local municipality.**

Here's what we know: Information coming our way this week indicates it may be possible that a number of Ohio ministers could qualify for a little known income tax exemption related to your local municipality. The official language from a professional CPA appears below for reference and our Director of Finance, Bob Fulton has verified this with a second CPA. Attached below is also a memo from the Columbus Income Tax Department and a RITA form for tax refunds.

What is this about? A few days ago, I received an email from my counter-part with the Assemblies of God, informing me of a discovery that had recently been brought to his attention about a provision in Ohio tax law that affected many ministers, which is set to expire after the 2015 tax year. He told me that the Southern Baptist Convention in Ohio had alerted him to this information after having verified the information with the municipalities of Columbus, Westerville and the statewide RITA organization. All these agencies indicated that many ministers have been exempt from paying municipal income taxes for several years and, consequently, since most ministers were unaware of this, these local municipalities were issuing refunds for the municipal portion of income taxes paid in recent years. I have also been in contact with my municipality's income tax office (Delaware, OH) and am in the process of amending my 2012 - 2014 municipal income tax returns. My city tax office is requesting me to file amended returns with W-2s and a letter from my ministry reporting that my position was a qualifying ministry position and that income received from my service in this position is exempt from taxation.

Apparently, it is now too late to file an amended return for all the years this provision in the Ohio Tax was in place, but it sounds like it might be worth it to file an amendment seeking credit for as many previous years as possible, (maybe 3 years or so?), if this provision applies in your case.

Professional contacts who researched the matter and, to their admitted surprise, believe this is a legitimate opportunity for interested and qualifying ministers to take advantage of, at your discretion. Plainly stated, this could mean **hundreds, if not thousands, of dollars in tax refunds for many of our ministers. But remember, this window of opportunity is quickly closing.**

As I stated earlier, I am not a CPA so your best source of information moving forward is to contact a qualified tax preparer or your local municipality or RITA branch office. What we are giving you in this message is all that we know. If we learn more I will certainly forward that information to you. It would still behoove you to do something by April 15 at the very latest, from the information I have been given.

I would also encourage you to contact your fellow ministers right away to make sure they are aware of this notification while there is still time to apply for a refund. A number of our ministers and churches do not receive (or, *here's a shocker*, some receive but don't read) every e-mail sent from the Ohio Ministries of the Church of God☺

I do hope this can be a blessing to many of our ministers and their families. Read below for further clarification.

In this new year, I send my sincerest greetings of gratitude for the opportunity to serve you as state pastor and director of ministries. Please know that I love you and am praying that 2016 will be a *sweet* year for you as you serve the Lord and His Church!

Believing we are . . .  
Better together!

Esther Cottrell

Statement from the CPA who researched this in conjunction with legal counsel:

*Here is the authoritative point of view about a hidden hole in the Ohio Revised Code that allowed ministerial income to be exempt from taxation:*

*1>Returns from 2012 to 2014 can be amended within 3 years up until the tax was due or paid (usually April 15<sup>th</sup>) (ORC 718.19, new code section (this is different language and the concept of when the tax was due is somewhat ambiguous)). The prior law that is in effect until 12/31/2015 stated 3 years from when the return was filed (orc 718.12).*

*2.Old Ohio Revised Code Section 718.03(A)(2) code defines wages as qualifying wages per Internal Revenue Code Section 26 USC 3121 (attached). This code section defines wages as generally medicare wages and specifically states those wages received for employment and employment is defined to exclude ministerial wages (subsection (b)(8)).*

*3.The proper preparation of a w-2 for ministerial wages is to record all income subject to taxation in box 1 and to have withholding in box 2 and for the social security and*

*medicare tax boxes to not be completed. This is different than all other normal employers. Ministers are not subject to social security tax. They must pay their own social security tax on their form 1040 as self-employment tax. This is mandated, not optional. If a minister has an entry in box 5 of the w-2, the w-2 was not completed correctly and all returns should be amended, including the w-2*

*4. Because the Ohio revised code section 718.03(A)(2) defines wages in this manner, the ministerial wages are technically exempt from city taxation. This is an Ohio Revised Code mandate and not optional for the city. This was fixed by 718.01(R)(2)(e) which now includes any wages subject to self-employment tax.*

*5. Thus, any ministerial wages reported on a w-2 with zero in box 5 are not subject to municipal income tax and the return can be amended and a refund claimed.*

# Memo

**To:** Hugh J. Dorrian, City Auditor  
**From:** Melinda J. Frank, Income Tax Division Administrator   
**Date:** August 17, 2015  
**Re:** Municipal Taxation of Clergy Wages

House Bill 95 with an effective date of June 26, 2003 included the language of ORC § 718.03 (A)(2), establishing the definition of "qualifying wages" as "...wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations...". IRC §3121(a) refers to compensation for "employment". It is necessary to then look to IRC §3121(b) and its definition of "employment". IRC §3121(b) (8), specifically excepts from this definition wages paid to clergy. As ORC Chapter 718 has been viewed as the controlling language with regard to wages subject to the municipal income tax, as of June 26, 2003, the Columbus Income Tax Division has followed its provisions with regard to application of the Columbus income tax to only wages falling under the above definitions. The Division has not knowingly accepted municipal tax paid on excepted wages. However, if indeed tax was withheld from such excepted wages and remitted to the Income Tax Division by an employer, those impacted members of the clergy would be entitled to a refund of the tax paid in tax years 2013 and 2014 as these years are currently open for the purposes of applying for a refund.

The passage by the State Legislature of Amended House Bill 5 with an effective date of January 1, 2016, amended ORC Chapter 718 in that it requires, at §718.01(R) (2), the add back of clergy wages when calculating qualifying wages for the purposes of determining municipal taxable income. As this treatment of clergy wages is effective only with regard to wages earned on or after January 1, 2016, those wages earned in 2015 will not be subject to municipal income tax. Members of the clergy who have had tax withheld from wages during tax year 2015 will be entitled to a refund with the filing of a return on or before April 18, 2016 (the filing deadline has been extended in light of the federal observance of Emancipation Day on April 15, 2016).

Form **10A**

**Regional Income Tax Agency  
Application for Municipal Income Tax Refund**

Contact us toll free:  
Cleveland 800.860.7482  
Columbus 866.721.7482  
Youngstown 866.750.7482  
TDD 440.526.5332

Your first name and middle initial		Last name		Your social security number		Tax year of claim			
Current home address (number and street)			Apt #		Daytime phone number			Evening phone number	
City, state, and ZIP code									

**Reason for Claim**

Check the box below that applies. Note: A separate 10A is required for:

- If you have multiple W-2 forms
- Married taxpayers both claiming refunds.
- If you worked in multiple RITA municipalities.

**No refunds will be issued without the proper documentation indicated by reason for claim.  
A claim for refund must be signed by employee on page 2**

1.  **Under 18 years of age.** Date of Birth: \_\_\_/\_\_\_/\_\_\_\_. Attach a copy of your W-2 Form & proof of birthdate (birth certificate, driver's license, etc). If you were under 18 for only part of the year, you must either: 1) have your employer sign the completed Employer Certification on page 2, or 2) attach a copy of your pay stub for the pay period in which your birthday fell. For cities with different age limits see the Special Notes at www.ritaohio.com
2.  **Un-reimbursed business expenses.** Attach a copy of your W-2 Form, the federal Schedule A and federal Form 2106 filed with your federal 1040. Employer does NOT need to complete the Employer Certification on page 2
3.  **Days worked outside of city or village for which the employer withheld tax.** Attach a copy of your W-2 Form, a completed Log of Days Out Worksheet on page 3, and a completed Calculation for Days Worked Out of RITA on page 3. In addition, your employer must sign the completed Employer Certification on page 2
4.  **Employer withheld at a rate higher than the municipality's tax rate.** Attach a copy of your W-2 Form. Your employer must sign the completed Employer Certification on page 2
5.  **Employer withheld too much resident city tax.** Attach a copy of your W-2 Form. Your employer must sign the completed Employer Certification on page 2
6.  **Withheld by mistake for the city of \_\_\_\_\_ when I actually worked in the city of \_\_\_\_\_.** Attach a copy of your W-2 Form. Your employer must sign the completed Employer Certification on page 2  
Indicate the address where you actually worked.

Work Location Street Address	City	State	Zip
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7.  **Over-the-road truck driver had work city tax withheld on wages.** The wages of a trucker regularly assigned to drive in more than one state are only taxable by the trucker's municipality of residence. Other truckers need to provide logs substantiating the time spent outside the municipality. Complete Employer Certification on page 2
8.  **Military Spouse Residency Relief Act.** Attach copies of W-2 Form, Form DD 2058, valid military spouse ID card and service member's most recent LES.
9.  **Other (Indicate Reason).** Attach W-2 Form and other documentation per instructions. Your employer must sign the completed Employer Certification on page 2

**Claim**

1 Employer Federal ID #	Employer Name	1	
2 RITA City or Village for which tax was withheld (from W-2, Box 20). RITA will not refund tax withheld to a Non-RITA municipality		2	
3 Amount of income not taxable. For reason 2 enter your 2106 expenses. Enter -0- for reasons 4 and 5. For all other reasons enter the amount of wages you are claiming are not taxable		3	
4 Amount of over withholding claimed		4	
5 Amount of over withholding you want applied as a payment to your individual or joint account instead of being refunded to you. Enter -0- if you want all of your refund sent to you		5	
Provide the social security number of the account to which you want the amount on line 5 to be credited	SSN of account to be credited		
6 Net amount to be refunded. Subtract line 5 from line 4		6	