



# Tax Practitioner Seminar

January 27, 2017

## Taxable Income Changes - Individual Filers



### Lottery and Gambling Winnings

- **Lottery and gambling winnings** reported on a W-2-G are taxable in all municipalities.
- **Report** lottery and gambling winnings in Section A of the RITA Form 37 with other W-2 income.
- **Gambling losses** may not offset gambling winnings unless the taxpayer is a professional gambler per IRS regulations.

## Clergy Wages

- **Clergy wages** are taxable whether appearing in Box 5 of the W-2 or not.
- **A specific addition** to “qualifying wages” has been adopted with HB 5 to capture clergy wages that are not subject to Medicare.
- **This addition** applies for tax years beginning on or after January 1, 2016.

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## Form 2106 Business Expenses

- **All municipalities** must allow individuals to deduct employee business expenses:
  - ❖ **Reported on** the individual’s Form 2106;
  - ❖ **That the individual deducted** for federal income tax purposes; and
  - ❖ **Subject to the limitation** imposed by Section 67 of the Internal Revenue Code (2% of federal adjusted gross income).
- **Taxpayers must provide** federal Schedule A and Form 2106 for consideration at the municipal level.
- **See R.C. 718.01(A)(2).**

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## Third Party Sick Pay

- **Third party sick pay** (short-term disability paid by a third party) is exempt from tax whether included in Box 5 of the W-2 or not.
  - ❖ **Pre-HB 5**, third party sick pay included in Box 5 of the W-2 was taxable to the recipient, but not subject to withholding by the payer.
  - ❖ **HB 5** provided a new specific deduction from the definition of “qualifying wages”, resulting in this income being exempt from tax even if it appears in Box 5 of the W-2.

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## Age Exemptions

- **Age exemptions** for taxpayers are still determined by municipal ordinance.
  - ❖ **See the Special Notes** for each municipality on the RITA website to determine any age exemptions.
  - ❖ **Some municipalities made a change** from pre-HB 5 age exemptions – **do not assume treatment is the same after January 1, 2016** – check RITA’s website or municipal ordinances for treatment.
  - ❖ **Most all special rules/exemptions** related to students, senior citizens, etc., are no longer in place – refer to RITA Special Notes or municipal ordinances.

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## Deferred Compensation, SERPs, Stock Options

- **Tax treatment** of these items is still determined by municipal ordinance.
- See each **RITA municipality's Special Notes** to determine municipal treatment of these items.
- **Do not assume pre-HB 5 treatment continues** – some RITA municipalities have newly exempted this income and some have eliminated previous exemptions.

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## Real Estate Commissions

- **Commissions received by a real estate agent or broker** from the sale or lease of real property are to be situated to the **location of the property** sold or leased.
- Net profit of the agent or broker is to be **allocated** based upon a ratio of the commissions received from property in the municipal corporation to commissions received from property everywhere.
- **Individual residents** with net profit from real estate activity **must report net profit from all real estate activity**, subject to any credit available for tax paid to other municipalities.
- **See R.C. 718.02(F).**

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## Publicly Traded Partnerships

- A **publicly traded partnership (PTP)** is any partnership an interest in which is regularly traded on an established securities exchange. Cedar Fair is an example.
- R.C. 718.01(D)(4) allows a **PTP subject to tax on its net profits in at least one Ohio municipality** to make an election to be treated as a C-corporation for purposes of the income that passes through to its owners.
- If the PTP makes this election, the net profit of the PTP that passes through to the owners **is not subject to tax in the owners' residence municipality** as pass-through income.

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## RESIDENT BUSINESS INCOME & LOSS OFFSETS

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## Resident Business Income & Loss Offsets

- Allows for current year offsetting of all business income and losses of residents of taxing municipalities only for residence tax purposes.
  - ❖ i.e. All business income & losses are in “one bucket” for offsetting purposes.
- Includes Schedule C, E & F owned by the resident.

## Resident Business Income & Loss Offsets

- Includes pass-through income & losses of the resident.
- S Corporation limitations for residence tax purposes still apply – income or losses of S corporations do not flow to an owner unless the owner lives in a municipality that voted in 2003 or 2004 to permit taxation of S corporation owners.

## **Resident Business Income & Loss Offsets**

- **Net “Business Bucket Losses” cannot offset Qualifying Wages.**
  - ❖ NOL CF & Phase-in Provisions apply when net total “Business Activity Bucket” is loss.
  - ❖ NOL CF cannot offset Qualifying Wages.
  
- **Does not apply to business income earned by non-residents in non-resident municipality.**
  - ❖ Non-residents must file and pay on business income (typically Schedule C, E & F income) in municipality where income is earned.
  - ❖ NOL CF & Phase-in Provisions apply.