
Municipal Income Tax: What You Really Should Know



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Background



Background

- Philadelphia, PA – 1st Municipal Income Tax in U.S. – 1938-39
- **Toledo – 1st Ohio municipality to enact income tax – 1946**
- Ohio cities and villages begin to adopt income tax – Late 1960s/Early 1970s

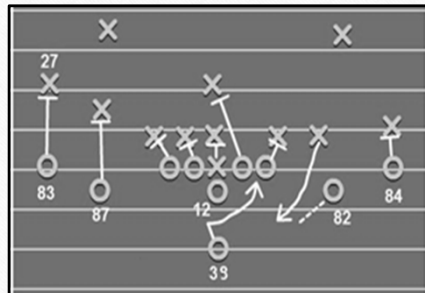
Background

- The municipal income tax applies to **Individuals** who:
 - **Earn taxable income** in one or more Ohio municipalities, **and**
 - **Live in** a Ohio municipality.
- It also applies to **Businesses earning taxable income** in one or more Ohio municipalities.

Background

- **Businesses** owe municipal income tax to the **municipality(ies)** in which they earn their income.
- **Individuals** owe municipal income tax to the **municipality(ies)** in which they earn their income, **AND** may also owe municipal income tax to the municipality where they live.

Time Out: Example



Example

- Individuals may be subject to **two municipal taxes**
 - **Workplace** – tax where earned by taxpayer
 - **Residence** – tax where taxpayer resides
- This may result in a taxpayer having a higher effective tax rate

Example

- John worked in Columbus and lived in Bexley for all of 2017.
John earned **\$50,000** where **\$1,250** Columbus city tax was withheld.

	Tax Rate	Tax Credit	Credit Limit
Bexley	2.50%	65.00%	2.50%

- John files his Bexley return showing that he owes Bexley \$1,250 (2.5%), but may only take **credit for 65%** of the \$1,250 he paid to Columbus.
- John owes Bexley an additional \$437.50 (\$1,250 - \$812.50)

Example

- Although Bexley's stated rate is 2.5% John's **effective** rate is higher:

$$\begin{array}{rcc} (\$1,250 + \$437.50) / \$50,000 = \underline{3.375\%} \\ \text{(Columbus)} \quad \text{(Bexley)} \qquad \qquad \text{(Total)} \end{array}$$

Contrary to Popular Belief...

- There is **no RITA Tax**
- RITA is **not a municipality**
 - RITA is a “Regional Council of Governments”, formed under State Law to administer municipal income taxes for its member municipalities

Background (Cont.)



Background ORC 718

- Ohio municipal income tax is primarily located in **Chapter 718** of the Ohio Revised Code, the “ORC” or “RC”
 - Requires municipalities to levy a *flat tax*
 - Must be uniformly applied to both individuals and businesses
 - Limits the types of income that municipalities may tax
 - Municipality may determine its own rate and credit



Background

A series of “Uniformity Bills” have modified ORC 718

HB 477/483	2000	Generic forms, Safe harbor, 12-day occasional entrant
HB 95	2003	Qualifying wages, Adjusted federal taxable income, Ohio Business Gateway, S-Corps taxable, Non-qualified deferred compensation
HB 224	2008	Due dates tied to federal, Tax preparer authorization, Tax appeal options, Credit for tax paid to wrong municipality
HB 5	2014	De Minimis thresholds, Taxpayer bill of rights, 20-day occasional entrant, Small employer, Penalty and interest, Lottery & gambling, Residency, NOL Carryforward
HB 49	2017	Eliminate sales throw-back, Opt-in net profit tax w/ ODT

Background

Case Law

- **What** municipalities can tax and how municipalities enforce their taxes **has also been impacted** by decisions of:
 - Common Pleas Courts
 - Ohio Board of Tax Appeals
 - County Courts of Appeals
 - Ohio Supreme Court
 - Federal courts

Background

Court Decisions that have impacted Municipal Tax

Firestone v. Neusser	1987	Contributions to tax-deferred retirement savings plans are not exempt from municipal income tax because of ERISA.
Springfield v. Hicks	1988	Where payment of muni income tax is delinquent, statute of limitations does not begin until an income tax return is properly filed.
Fairlawn v. Billington	1991	Municipal tax for R/E agents is based on situs of agent not the sale. (Reversed by HB 5)
Cincinnati v. Bawtenheimer	1992	Municipality has right to request copy of Federal Form 1040 with municipal return. (Incorporated in law by HB 5)
Springfield v. All Am. Food Specialists	1993	Resident employer cannot be compelled to withhold tax on a resident taxpayer working in another jurisdiction.

Background

Court Decisions that have impacted Municipal Tax

Columbus v. Reckless	1995	Municipality may require self-employed taxpayers to pay equal quarterly installments of estimated tax.
Fisher v. Neusser	1996	Municipality has the power to levy an income tax on lottery winnings received by its residents. (Incorporated in law by HB 5)
E. Cleveland v. Landringham Bedford v. Dalton State v. Dalton	1994 2004 2005	Clarified definition of resident (Largely superseded by HB 5)
Boyer v. St. Bernard	2009	Stock options are taxable when exercised.
Ochsner v. Cincinnati	2011	Severance pay is taxable income.
Panther II Transp. Inc. v. Seville	2011	Motor transportation company is exempt from municipal net profit tax.

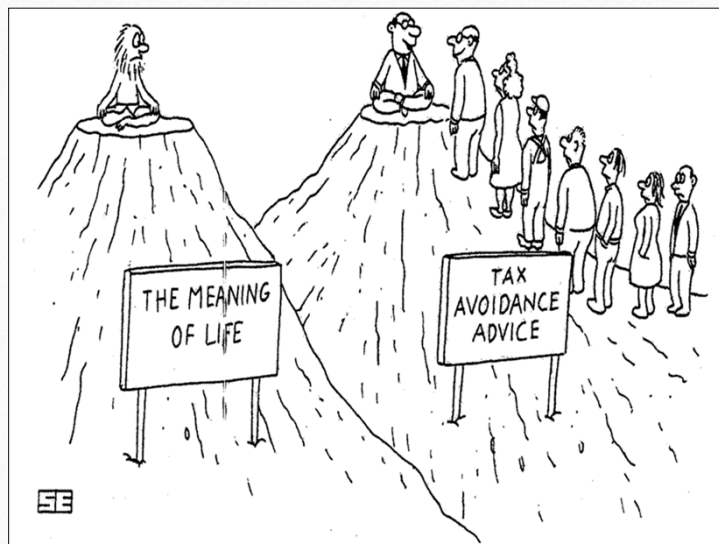
Background

ORC 718

- Today, ORC 718 provides uniform requirements for:
 - Taxable employee compensation (**Qualifying wages ≈ Medicare wage**)
 - Annual **tax return due dates**
 - **Estimated tax payment** thresholds and due dates
 - **Taxpayer appeal** rights and requirements
 - **Statute of limitations** on collecting delinquent taxes (3-6 years) and paying refunds (3 years)
 - Litany of **other uniform administrative regulations** (Board make-up, assessments, etc.)

Background

- Wherever ORC 718 is silent, municipal tax ordinances may dictate
 - **Rules and Regulations** may clarify the ordinance
 - These are not mandatory
 - **Instructions for filing** may clarify the Rules & Regulations



Third-Party Administrators (TPA)

58% of Taxing Jurisdictions in OH

	Full Members	JEDDs	Total
Cleveland – CCA	48	14	62
RITA	294	28	322
	342	42	384

What Lies Ahead?



What Lies Ahead?

- **Court Decisions**
 - Throw-back provision
 - Opt-in with ODT – Home Rule
- **Legislation**
 - SERP & Other Non-Qualified Plans
 - Mandatory 100% Credit
 - Further Erosion of Home Rule / Centralized Collection

Questions? / Contact / Thank You!

RITAOhio.com

RITAperspectives.com



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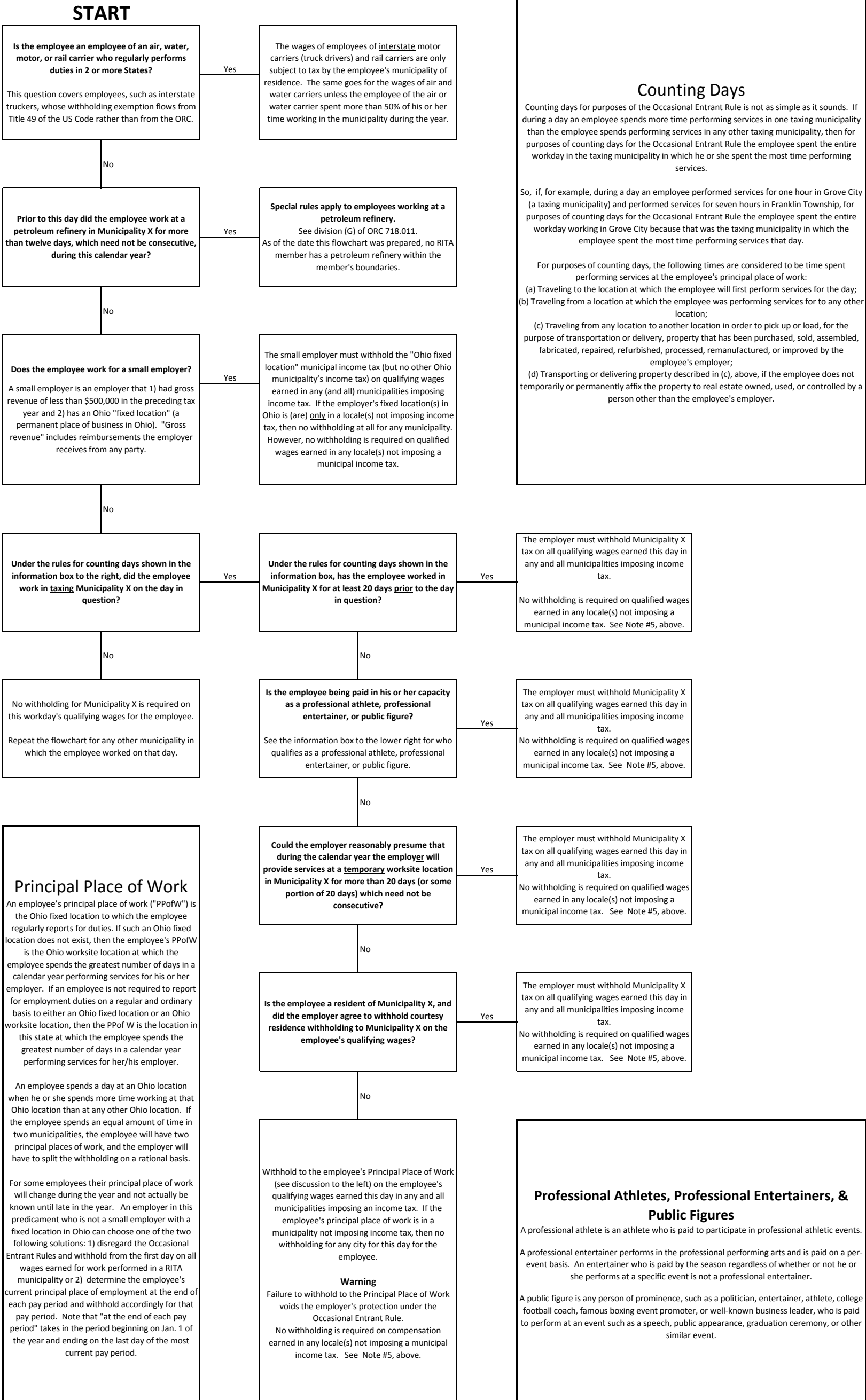
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For which municipality does Ohio Revised Code section 718.011 require withholding for the day?

Notes:

- JEDDs and JEDZs are municipalities under Ohio Revised Code section 718.01(AA).
- For each employee working in at least one taxing municipality on a day, the employer will withhold for only one municipality for that entire day. However, there will be no required withholding at all for employees of any small employer if the small employer's fixed location in Ohio is in a jurisdiction not imposing municipal income tax.
- An employer does not have to withhold any tax for qualifying wages paid to any employee for work the employee performs in a locale where there is no municipal income tax.
- An employer who is not a small employer (see "Does the employee work for a small employer?" below, left) can choose to disregard the Occasional Entrant Rules and withhold from the first day on all wages earned for work performed in an "occasional entrant" municipality.
- For qualifying wages for which no withholding is required per the flowchart, the employer must keep clear and convincing documentation to support that no withholding was required.
- Even though withholding may not be required per the flowchart, the employer can elect to withhold for the municipality in which is located the employee's principal place of work (defined below, left).

Revised 1/20/16; Updated 10.19.16



S-Corp. Rules for RITA Member Municipalities

S-Corp distributive shares are taxable, regardless of participation or origin and should be reported on Form 37.

FAIRPORT HARBOR	PERRY	RIVERSIDE
PAINESVILLE	RICHMOND HEIGHTS	YELLOW SPRINGS

The Ohio S-Corp distributive shares are taxable and should be reported on Form 37.

AVON	EAST PALESTINE	MACEDONIA	OLON
AVON LAKE	EASTLAKE	MAPLE HEIGHTS	SOUTH EUCLID
BOSTON HEIGHTS	FREMONT	MENTOR	STREETSBORO
BROOKLYN HEIGHTS	GAHANNA	NORTH CANTON	TWINSBURG
CAMPBELL	HIGHLAND HEIGHTS	OAKWOOD	VALLEY VIEW
CHAGRIN FALLS	HOLLAND	POWELL	WICKLIFFE
CHARDON	JACKSON CENTER	SEVEN HILLS	WILLOUGHBY
CLEVELAND HEIGHTS	JOHNSTOWN	SHEFFIELD LAKE	WILLOUGHBY HILLS
CUYAHOGA HEIGHTS	LAKEMORE	SHEFFIELD VILLAGE	WOODMERE

S-Corp distributive shares that do not represent wages are generally not taxable and should not be reported on Form 37.

ABERDEEN	FAYETTE	MIDVALE	RIO GRANDE
ADDYSTON	FELICITY	MIFFLIN	RIPLEY
ADELPHI	FORT JENNINGS	MILAN	ROCKY RIVER
AMANDA	FOSTORIA	MILFORD	ROSSFORD
AMSTERDAM	FREDERICKTOWN	MILFORD CENTER	SABINA
ANDOVER	GALENA	MILLER CITY	SAINT CLAIRSVILLE
ANTWERP	GALION	MILLERSPORT	SAINT PARIS
ARLINGTON HEIGHTS	GARFIELD HEIGHTS	MINERAL CITY	SALINEVILLE
ASHLEY	GETTYSBURG	MINERVA PARK	SANDUSKY
ASHVILLE	GIRARD	MINGO JUNCTION	SARDINIA
AURORA	GLENWILLOW	MOGADORE	SEBRING
BALTIC	GRAFTON	MORELAND HILLS	SHAKER HEIGHTS
BALTIMORE	GRANDVIEW HEIGHTS	MORRAL	SHAWNEE HILLS
BARNESVILLE	GRATIS	MOUNT STERLING	SHERWOOD
BAY VILLAGE	GREENHILLS	MOUNT VICTORY	SILVER LAKE
BEACHWOOD	GROVE CITY	MT HEALTHY	SILVERTON
BEAVERDAM	HANOVER	NEW ALBANY	SMITHFIELD
BEDFORD HEIGHTS	HARRISON	NEW BAVARIA	SOUTH SOLON
BELLE CENTER	HARROD	NEW FRANKLIN	SOUTH VIENNA
BELLEFONTAINE	HASKINS	NEW RICHMOND	ST. LOUISVILLE
BELLEVUE	HILLIARD	NEW RIEGEL	STEUBENVILLE
BELPRE	HIRAM	NEW WASHINGTON	STOUTSVILLE
BENTLEYVILLE	HOPEDALE	NEW WATERFORD	STRATTON
BEREA	HUDSON	NEWBURGH HEIGHTS	STRONGSVILLE
BETHEL	HURON	NEWCOMERSTOWN	SUGAR GROVE
BETTSVILLE	INDEPENDENCE	NEWTON FALLS	SUGARCREEK
BEXLEY	JEFFERSONVILLE	NEWTONSVILLE	SUNBURY
BLOOMDALE	JERRY CITY	NEWTOWN	SWANTON
BLOOMINGDALE	JEWETT	NEY	SYCAMORE
BRECKSVILLE	KENT	NILES	TALLMADGE
BREMEN	KILLBUCK	NORTH LEWISBURG	THURSTON
BROADVIEW HEIGHTS	KIRKERSVILLE	NORTH OLMSTED	TIRO
BROOKLYN	KIRTLAND	NORTH RIDGEVILLE	TONTOGANY
BUCKLAND	LAGRANGE	NORTH ROBINSON	TORONTO
CAIRO	LAKELINE	NORTH ROYALTON	TREMONT CITY
CAMDEN	LEETONIA	NORTHFIELD VILLAGE	TRIMBLE
CARDINGTON	LITHOPOLIS	NORWALK	UHRICHSVILLE
CARROLL	LOCKBOURNE	OAK HILL	UNIVERSITY HEIGHTS
CATAWBA	LOCKLAND	OBERLIN	UPPER ARLINGTON
CECIL	LODI	OLMSTED FALLS	VERMILION
CEDARVILLE	LOVELAND	ORANGE	WADSWORTH
CENTERBURG	LOWELLVILLE	OSTRANDER	WAKEMAN
CIRCLEVILLE	LYNDHURST	OTTAWA	WASHINGTONVILLE
CLARKSVILLE	LYONS	OXFORD	WATERVILLE
CLINTON	MADISON VILLAGE	PATASKALA	WAYNESVILLE
COMMERCIAL POINT	MAINEVILLE	PATTERSON	WELLINGTON
CONESVILLE	MANCHESTER	PENINSULA	WELLSTON
CONTINENTAL	MARENGO	PEPPER PIKE	WEST ELKTON
CORWIN	MARTINS FERRY	PIKETON	WEST LAFAYETTE
DANVILLE	MAYFIELD HEIGHTS	PLAIN CITY	WEST MANSFIELD
DARBYVILLE	MAYFIELD VILLAGE	PLEASANT HILL	WESTLAKE
DEGRAFF	MCCLURE	PLEASANTVILLE	WESTON
DENNISON	MCDONALD	PORTAGE	WILLIAMSBURG
EAST CLEVELAND	MECHANICSBURG	POWHATAN POINT	WILLIAMSPORT
EATON	MEDINA	QUINCY	WILLOWICK
EDGERTON	MELROSE	RAVENNA	WINTERSVILLE
ELMORE	METAMORA	REMINDERVILLE	WOODSTOCK
ELYRIA	MIDDLE POINT	REYNOLDSBURG	WORTHINGTON
FAIRBORN	MIDDLEBURG HEIGHTS	RICHWOOD	YOUNGSTOWN
FAIRVIEW PARK	MIDDLEPORT	RIDGEWAY	

as of 1.1.2018