

CHAPTER 181
Municipal Income Tax
Effective through December 31, 2015
For taxable years through taxable year 2015

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CROSS REFERENCES

Income tax authorization - see CHTR. 47-C et seq.
Municipal income taxes - see Ohio R.C. Ch. 718

181.01 PURPOSE.

To provide funds:

- a. For the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City
(Ord. 1970-100. Passed 10-14-70; Ord. 1972-30. Passed 4-11-72.);
- b. For compensating employees of the police and fire forces of the City and for no other purpose whatsoever. (Ord. 1987-84. Passed 12-8-87.)

There shall be, and is hereby, levied a tax on qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.
(Ord. 2003-119. Passed 12-22-03.)

181.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

A. "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- 1. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

2. Add an amount equal to five percent (5%) of intangible income deducted under division A.1. of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.

3. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

4. (a) Except as provided in division A.4.(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(b) Division A.4.(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

5. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

6. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

7. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:

(a) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

(b) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division A. of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

B. "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

C. "Board of Review" means the Board created by and constituted as provided in Section [181.13](#).

D. "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.

E. "Capital Gains" means the net profits from the sale of any real or personal property if:

1. Such property has been owned by the taxpayer for more than one year; and

2. The taxpayer is not regularly engaged in the business of selling such kind or character of property.

F. "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.

G. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

H. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.

I. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

J. "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.

K. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

L. "Gross receipts" means total income of taxpayers from whatever source derived.

M. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

N. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

O. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

P. "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.

Q. "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

R. "Municipality" means the City of Portsmouth, Ohio.

S. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in division F. of Section [181.03](#), required to be reported on schedule C, schedule E, or schedule F.

T. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

U. "Nonresident" means an individual domiciled outside the Municipality.

V. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.

W. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.

X. "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.

Y. "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

Z. "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of :

(a) The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to

(b) The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

AA. "Pass-through entity" means a partnership, Limited Liability Company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

BB. "Person" means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, "person" as applied to any association shall include the partners or members thereof, and as applied to corporations, the officers thereof.

CC. "Place of business" means any bona fide office (other than a mere statutory office); factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his employees, regularly in attendance.

DD. "Qualified plan" mean a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

EE. "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.

FF. "Resident" means an individual domiciled in the Municipality.

GG. "Resident incorporated business entity" means an incorporated business entity whose office, place or operations or business situs is within the Municipality.

HH. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.

II. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

JJ. "Rules and Regulations" means the Rules and Regulations as set forth in this Chapter.

KK. "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

LL. "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

LL. "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

MM. "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

NN. "Tax Commissioner" means the Tax Commissioner of the City or the person executing the duties of the aforesaid Commissioner under the direction and supervision of the City Auditor.

OO. "Tax year" means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

PP. "Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required by this chapter to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

(Ord. 2003-119. Passed 12-22-03.)

181.03 IMPOSITION OF TAX.

A. 1. Subject to provisions of Section [181.14](#), an annual tax, for the purposes specified in Section [181.01\(a\)](#), shall be, and is hereby, levied on and after January 1, 1971, at the rate of one-half of one percent (.5%) (Ord. 1970- 100. Passed 10-14-70)

2. Subject to provisions of Section [181.14](#), an annual tax, for the purposes specified in Section [181.01\(a\)](#), shall be, and is hereby, levied on and after May 1, 1977, at the rate of one-half of one percent (.5%) (Ord. 1972-30. Passed 4-11-72; Ord. 1976-100. Passed 9-14-76)

3. Subject to provisions of Section [181.14](#), an annual tax, for the purposes specified in Section [181.01\(b\)](#), shall be, and is hereby levied beginning January 1, 1988, in an additional amount of four-tenths of one percent (.4%) per year upon the following:

4. To provide funds for the operation of the Police and Fire forces of the City and for no other purpose whatsoever there is hereby levied beginning January 1, 2012, an additional amount of six-tenths of one percent (.6%) per year upon the following:

B. 1. On all salaries, qualifying wages, including sick pay and vacation pay, commissions and other compensation earned or received during the effective period of this section by residents.

2. On all salaries, qualifying wages, including sick and vacation pay, commissions and other compensation earned or received during the effective period of this section by nonresidents for work done or service performed in the Municipality.

3. (a). On the portion attributable to the Municipality of the net profits earned during the effective period of this section, of all resident associations, unincorporated businesses, pass-through entities, professions or other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted in the Municipality.

(b). On a resident partner's or owner's share of the net profits, earned during the effective period of this section, of a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.

4 (a). On the portion attributable to the Municipality of the net profits, earned during the effective period of this section, of all nonresident associations, unincorporated businesses, pass-through entities, professions or other entities, derived from sales made, work done or services performed or rendered or business or other activities conducted in the Municipality, whether or not such association or other unincorporated entity has an office or place of business in the Municipality.

(b). On a resident partner's or owner's share of the net profits, earned during the effective period of this section, of a nonresident association, pass-through entity, or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.

5. On the net profits, earned during the effective period of this section, of 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 Municipality, whether or not such corporations have an office or place of business in the Municipality.

6. On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

C. Apportionment of Net Profits. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in division E. of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having taxable sites in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

(a) Ascertain the average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(b) Ascertain the percentage which the gross receipts of the business from sales made and services performed in the Municipality 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) Ascertain 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 Municipality are of the total wages, salaries, commissions and other compensation paid during such period to all employees within and outside the Municipality, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code.

(d) Adding together the percentages determined in accordance with subsections C(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. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

2. Provided, however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer, or the Tax

Commissioner, shall under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

D. Operating Loss Carry Forward

1. The portion of a net operating loss sustained in any taxable year, apportioned to the Municipality, may be applied against the portion of the profit of succeeding tax years, apportioned to the Municipality, until exhausted, but in no event for more than the five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior years.

2. The portion of a net operating loss sustained shall be apportioned to the Municipality in the same manner as provided herein for apportioning net profits to the Municipality.

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

E. Consolidated Returns

1. Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Commissioner.

2. 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, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly apportioned to the Municipality. If the Tax Commissioner finds net profits are not properly apportioned to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper apportionment of net profits to the Municipality.

F. Capital Gains Capital gains from the sales of depreciable property shall be taxable to the extent of the aggregate amount of the depreciation taken on such property for Municipal income tax purposes, after August 1, 1965.

G. Exception The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio Revised Code 718.01 to the extent that such net profits are exempted from Municipal income taxes under such section.

(Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03; Ord. 2011-61. Passed 12-27-11.)

181.04 EFFECTIVE PERIOD.

A. The tax imposed by Section 181.03A.1. shall be levied, collected and paid with respect to all income and net profits, subject to the tax, earned on and after January 1, 1971.
(Ord. 1970-100. Passed 10-14-70).

B. The tax imposed by Section 181.03A.2. shall be levied, collected and paid with respect to all income and net profits, subject to the tax, earned on and after May 1, 1977.
(Ord. 1976-110. Passed 9-14-76).

C. The tax imposed by Section 181.03A.3. shall be levied, collected and paid with respect to all income and net profits, subject to the tax, earned on and after January 1, 1988.
(Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03.)

181.05 RETURN AND PAYMENT OF TAX.

A. All residents eighteen years of age or older who reside within the City limits shall, whether or not a tax is due thereon, make and file, on or before April 15 in each year during the effective period of this chapter, a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this chapter, file his return on or before the 15th day of the fourth month following the end of such fiscal year or period. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers

from the salaries, qualifying wages, commissions or other compensation of an employee, and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, qualifying wages, commissions or other compensation.

1. Senior citizens or retired individuals may be exempted from the requirement of filing an annual City income tax return if they file a written statement with the Tax Commissioner, which statement states that they are sixty-five years of age or retired, and have no source of income other than pension, social security, interest or dividends.

(Ord. 2014-24. Passed 6-9-14.)

B. The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns, and setting forth:

1. The aggregate amounts of salaries, qualifying wages, commissions and other compensation received, allocated, apportioned, or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to such tax;

2. The amount of the tax imposed by this chapter on such earnings and profits; and

3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other pertinent information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.

C. The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer. If the extension is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

D. 1. The taxpayer making a return shall at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due is deducted at the source, pursuant to the provisions of Section [181.06](#); or where any portion of such tax is paid by the taxpayer, pursuant to the provisions of Section [181.07](#); or where an income tax, creditable against the Municipal tax pursuant to Section [181.15](#) has been paid to another municipality, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return. The credit for Municipal income tax withheld in cities other than Portsmouth shall not exceed amount of the Portsmouth tax.

2. A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) are collected or refunded.

E. The Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:

1. Fails to timely file the request; or

2. Fails to file a copy of the federal extension request, (if applicable); or

3. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or

4. Has failed to file any required income tax return, report, or other related document for a prior tax period.

F. The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section [181.10](#). No penalty shall be assessed in those

cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

G. Amended Returns

1. Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Sections [181.11](#) and [181.15](#). Such amended returns shall be on a form obtainable on request from the Tax Commissioner.

2. Within three months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

181.06 COLLECTION AT SOURCE.

A. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salaries, wages, commissions or other compensation, the tax levied under Section [181.03](#) of the qualifying wages due by such employer to each employee and shall, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Tax Commissioner the amount of taxes so deducted. Such return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed therefor by the Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

B. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

C. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section [181.12](#) hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

D. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, if any, was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the

Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

E. Provided, however, that no person shall be required to withhold the tax on the qualifying wages or other compensation paid domestic servants employed exclusively in or about such person's residence. (Ord. 1987-84. Passed 12-8-87)

F. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

G. Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

H. So long as the taxes withheld by an employer for the Municipality during the measurement period are less than three hundred dollars (\$300) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Commissioner. The Tax Commissioner may revoke the approval of quarterly filing and payments whenever the Tax Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

I. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year. (Ord. 2003-119. Passed 12-22-03.)

181.07 DECLARATIONS.

A. Every person who anticipates any taxable income which is not subject to Section [181.06](#) or who engages in any business, profession, enterprise or activity shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any.

B. 1. Such declaration shall be filed on or before April 15 of each year during the life of this chapter or on or before the fifteenth (15th) day of the fourth month following the date the taxpayer first becomes subject to the provisions of this section.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

C. 1. Such declaration shall be filed upon a form furnished by or obtainable from, the Tax Commissioner, or an acceptable generic form. Credit shall be taken in such declaration for the Municipal tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against the Municipal tax under Section [181.15](#).

2. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the taxable year.

3. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

4. A declaration may be amended at any time, provided, however that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. An amended declaration shall be filed on or before January 31 of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayer's income by thirty percent (30%) or more. At such time a payment, which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability, shall be made. If, upon the filing of the return required by Section [181.05](#) it appears that the taxpayer did not pay seventy percent (70%) of the taxpayer's tax liability and the amount of estimated tax he actually paid on or before January 31 or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section [181.10](#).

E. On or before the fifteenth (15th) day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section [181.10](#). (Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03.)

181.08 DUTIES OF THE TAX COMMISSIONER.

A. 1. The Tax Commissioner shall collect and receive the tax imposed by this chapter in the manner prescribed herein, and shall keep an accurate record thereof, and shall report all moneys so received, under the direction and supervision of the City Auditor.

2. The Tax Commissioner shall enforce payment of all income taxes owing the Municipality, shall keep accurate records, for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and shall show the dates and amounts of payments thereof.

B. Such Tax Commissioner is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

D. Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter. (Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03.)

181.09 INVESTIGATIVE POWERS OF TAX COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, or taxpayer or any person subject to, or whom the Tax Commissioner believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

B. The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

C. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section [181.12](#).

D. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the taxes required to be withheld are paid.

E. Any information gained as a result of any returns, investigations, hearing or verifications required or authorized by this chapter shall be confidential and no disclosure thereof shall be made except to Municipal, County, State or federal taxing agencies, or, except for official purposes, or except in accordance with proper judicial order. Whoever divulges such information in violation of this section is guilty of a misdemeanor of the first degree. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03.)

181.10 INTEREST AND PENALTIES.

A. All taxes imposed and moneys withheld or required to be withheld by employers, under the provisions of this chapter, remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1 ½ %) per month, or fraction thereof.

B. In addition to interest as provided in subsection A hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:

1. In the case of taxpayers failing to pay the full amount of tax due, a penalty of ten dollars (\$10.00) or ten percent (10%) of the amount of the unpaid tax, whichever is greater, if the tax is paid during the first year after such a tax became due; a penalty of ten dollars (\$10.00) or twenty percent (20%), of the unpaid tax, whichever is greater, if such tax is paid during the second year after the tax became due; and a penalty of ten dollars (\$10.00) or thirty percent (30%), of the amount of the unpaid tax, whichever is greater, if the tax is paid later than two years after it became due.

2. In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of ten dollars (\$10.00) or five percent (5%) per month, or fraction thereof, of the unpaid withholding, whichever is greater, with a maximum of twenty-five percent (25%) of the total tax due.

3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).

4. No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

5. Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.

C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an

amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

D. Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

(Ord. 1987-84. Passed 12-8-87.)

E. Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.

(Ord. 2003-119. Passed 12-22-03.)

181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. In addition to any criminal penalties, which may be imposed pursuant to Section [181.12](#), all taxes imposed by Section [181.03](#) shall be collectible, together with any interest and penalties thereon by civil suit. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Tax Commissioner shall be one year from the time of the final determination of the federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later. (Ord. 1987-84. Passed 12-8-87.)

C. After the time period allowed for a refund of the tax or withholding paid to another municipality, a nonrefundable credit shall be allowed against tax or withholding erroneously paid or withheld to another municipality equal to the tax or withholding paid with respect to such income or wages.

1. If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in subsection C. above shall be calculated using the tax rate in effect.

2. Nothing in this section permits any credit carry forward.

D. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio R.C. 5703.47.

E. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

(Ord. 2003-119. Passed 12-22-03.)

181.12 VIOLATIONS AND PENALTIES.

A. Any person who shall:

1. Fail, neglect or refuse to make any return or declaration required by this chapter; or
2. Knowingly make an incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
4. Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
5. Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers and federal income tax returns; or
6. Fail to appear before the Tax Commissioner and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner;
7. Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or

8. Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner; or

9. Willfully fail, neglect or refuse to make any payment on the estimated tax for any year as required by Section [181.07](#); or

10. Fail, as president or treasurer of a corporation, to cause the tax withheld from the qualifying wages of the employees of such corporation pursuant to this chapter to be paid to the Municipality in accordance with the provisions of Section [181.06](#) hereof; or

11. Willfully give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or

12. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Tax Commissioner, or his duly authorized agent or employee, false information; or

13. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

Is guilty of a misdemeanor of the first degree for each offense.

B. All prosecutions under this section shall be commenced within three (3) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

C. The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information, return or declaration, from filing such form, or from paying the tax.

D. "Person", as used in this section, shall, in addition to the meaning prescribed in Section [181.02](#), include the case of an association or corporation not having any partner, member, or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

(Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03.)

181.13 BOARD OF REVIEW.

A. A Board of Review consisting of the Mayor, the City Solicitor and City Auditor, is hereby created.

B. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing and the provisions of Section [181.09](#) hereof with reference to the confidential character of information required to be disclosed by the chapter shall apply to such matters as may be heard before the Board on Appeal. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.

C. Any person dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal there from to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Tax Commissioner, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 1987-84. Passed 12-8-87). The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful.

D. Whenever the Tax Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Commissioner shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

E. The imposition of penalty and interest as prescribed in the Codified Ordinances of the Municipality is not a sole basis for an appeal.

F. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

G. The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the tax administrator may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code. (Ord. 2003-119. Passed 12-22-03.)

181.14 ALLOCATION OF FUNDS.

The revenues collected under the provisions of this chapter shall be as allocated by Ordinance from time to time.

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

A. Where a resident of the Municipality is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

B. Every individual taxpayer who resides in the Municipality and who receives salaries, wages, commissions or other compensation or net profits from sales made, work done or services performed or rendered outside of the Municipality, if it is made to appear that he has paid a municipal income tax on such income, taxable under this chapter, to another municipality, shall be allowed a credit against the tax imposed by this chapter in the amount of the tax so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where the tax is paid.

C. Notwithstanding the provisions contained in Section [181.11](#) or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from such taxpayer's wages, salaries or commissions for other municipalities.

D. The Tax Commissioner is hereby authorized to provide by regulation that a resident, working in another municipality imposing a tax on earned income shall not be required to file a declaration under Section [181.07](#) or return under Section [181.05](#), if such other municipality certifies to the Tax Commissioner that the tax levied under Section [181.03](#) is being deducted from the wages of such resident and is being paid to such other municipality and if the wages or other compensation subject to such withholding are the resident's only income taxable under this chapter. (Ord. 1987-84. Passed 12-8-87.)

E. The Municipality shall grant a credit against the tax imposed by this chapter to every taxpayer who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71 or 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this chapter on such income earned in such joint economic development zone or joint economic development district where such tax is paid. (Ord. 2003-119. Passed 12-22-03.)

181.16 REQUIREMENTS FOR JOINT ECONOMIC DEVELOPMENT DISTRICTS.

Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District contract or specifically amends this chapter. (Ord. 2003-119. Passed 12-22-03.)

181.17 INFORMATION BY LANDLORDS.

A. Within ninety (90) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

B. Within ninety (90) days after a tenant vacates an apartment, room or other rental property located within the Municipality, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and a forwarding address. (Ord. 2003-119. Passed 12-22-03.)

181.18 SAVING CLAUSE.

This chapter shall not apply to any person, firm or corporation or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part thereof no been included therein.

(Ord. 1987-84. Passed 12-8-87; Ord. 2003-119. Passed 12-22-03.)

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