

	TITLE NINE - Taxation
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#### CHAPTER 181 Income Tax

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#### CROSS REFERENCES

Power to pass income tax law - see Ohio Const., Art. XII, Sec. 8  
 Apportionment - see Ohio Const., Art. XII, Sec. 9  
 Payroll deductions - see Ohio R. C. 9.42  
 Municipal income taxes - see Ohio R. C. Ch. 718  
 State income tax - see Ohio R. C. Ch. 5747

#### 181.01 PURPOSE.

(a) There is hereby levied a tax on all qualifying wages, commissions and other compensation, and on net profits, as hereinafter provided, in the sum of one and one-half percent (1-1/2%) apportioned as follows:

- (1) One and two-tenths percent (1.2%) of the tax to provide funds for the purposes of general Municipal operations, maintenance of equipment, extension and enlargement of Municipal services and facilities, and capital improvements of the City.

- (2) Fifteen one-hundredths of one percent (0.15%) of the tax to be used for the purposes of capital improvements and the retirement of debt.
- (3) Fifteen one-hundredths of one percent (0.15%) of the tax to be used for the purposes of street improvement, reconstruction and repair.

(b) As to the use of these funds, "Capital Improvement" shall be defined as any property, asset or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for street purposes includes the resurfacing, but not the ordinary repair, of streets.

(c) The revised apportionment of the municipal income tax specified in paragraph (a) above shall be effective for municipal income tax revenue received on or after January 1, 2013. (Ord. 31-12. Passed 4-9-12.)

#### 181.02 DEFINITIONS.

(a) For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (1) "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, but including subsequent adjustments from required additions and deductions under Section 718.01(A)(1). Pass-through entities must compute adjusted Federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
- (2) "Administrator" means the individual designated by this chapter, and having the direct responsibility to administer and enforce the provisions of this chapter.
- (3) "Association" means a partnership, limited partnership, limited liability company, S corporation or any other form of unincorporated enterprise, owned by two or more persons.
- (4) "Board of Review" means the Board created by and constituted as provided in Section 181.12.
- (5) "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 including, but not limited to, the renting and leasing of property, real, personal or mixed.
- (6) "City" means the City of Fairfield, Ohio.
- (7) "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.
- (8) "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.
- (9) "Employee" means one who works for wages, salary, commission or other type of compensation for the service of an employer.

- (10) "Employer" means an individual, partnership, association, corporation, governmental body, unit, or agency, or any other entity, whether or not organized for profit, and including the officers and senior resident manager, who or which employs one or more persons on a salary, wage, commission or other compensation basis.
- (11) "Fiscal year" means an accounting period of twelve months or less, ending on any other day than December 31.
- (12) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) "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. The City shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed contains all of the information required to be submitted with the City's prescribed returns, reports, or documents.
- (14) "Gross receipts" means the total income from any source whatsoever.
- (15) "Income from 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.
- (16) "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, tradenames, real estate investment trusts, 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.
- (17) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (18) "Internet" means the International Computer Network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
- (19) "Joint Economic Development District or Zone" means a District or Zone created under Ohio Revised Code Sections 715.70, 715.71 and 715.73, as amended from time to time.
- (20) "Municipality" means the City of Fairfield, Ohio.
- (21) "Net profits." 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 Section 181.03(f), required to be reported on Schedule C, Schedule E, or Schedule F.
- (22) "Non-qualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (23) "Nonresident" means an individual domiciled outside the City.

- (24) “Nonresident incorporated business entity” means an incorporated business entity not having an office or place of business within the City.
- (25) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the City.
- (26) “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.
- (27) “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.
- (28) “Owner’s proportionate share”, with respect to each owner of a pass-through entity, means a ratio of:
- A. The owner’s income from the pass-through entity that is subject to taxation by the City, to
  - B. The total income from that entity of all owners whose income from the entity is subject to taxation by the City.
- (29) “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.
- (30) “Person” includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entities. Whenever used in any clause prescribing and imposing a penalty, the term “person”, as applied to an unincorporated entity, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof.
- (31) “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 regular employees regularly in attendance.
- (32) “Qualifying wages” means wages, as defined in Section 3121 of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (33) “Resident” means an individual domiciled in the City.
- (34) “Resident incorporated business entity” means an incorporated business entity having an office or place of business within the City.
- (35) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the City.
- (36) “Return preparer” means any person other than the taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document on behalf of the taxpayer.
- (37) “Schedule C” means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (38) “Schedule E” means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (39) “Schedule F” means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) “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.

- (41) “Tax Administrator” means the individual designated by this chapter, and having the direct responsibility to administer and enforce the provisions of this chapter.
- (42) “Taxable income” means qualifying wages, including, but not limited to, severance pay, sick pay, vacation pay and supplemental unemployment benefits paid by an employer or employers, commissions, compensation of personal services, other income defined by statute as taxable, and/or the net profits from operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (43) “Taxable year” means the period of time corresponding to the tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (44) “Taxing Municipality” means a Municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (45) “Taxpayer” means a person subject to a tax on income levied by the City. “Taxpayer” does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but “taxpayer” includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary. The singular shall include the plural, and the masculine shall include the feminine and the neuter.  
(Ord. 179-03. Passed 11-24-03.)

#### 181.03 IMPOSITION OF TAX.

(a) Annual Tax. An annual tax for the purposes specified in Section 181.01 shall be and is hereby levied on and after January 1, 1981 at the rate of one and one-half percent (1.5%) per annum upon the following:

- (1) On all taxable income earned by residents of the City.
- (2) On all taxable income earned, including non-qualified deferred compensation and severance pay, as defined herein by nonresidents for work done or services performed or rendered in the City and on all taxable income as defined herein paid by the City of Fairfield, irrespective of where the work is done or services performed or rendered.
- (3) A. On the portion attributable to the City of the net profits earned by all resident unincorporated businesses, professions, or other activities, derived from the sales made, work done, services performed or rendered, or business or other activities conducted in the City.  
B. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity not attributable to the City, and not levied against such unincorporated business entity.
- (4) A. On the portion attributable to the City of the net profits earned by all nonresident unincorporated businesses, professions, or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

- B. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity not attributable to the City, and not levied against such unincorporated business entity.
- (5) On the portion attributable to the City of the net profits earned of all corporations, including S Corporations derived from sales made, work done, services performed or rendered, and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(b) Business Both in and Outside the City Boundaries. 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 for individuals who are residents of the City, net profit from a business or profession conducted both within and outside the boundaries of the City shall be considered as having taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City 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.
  - (2) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
  - (3) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the City under Section 718.011 of the Ohio Revised Code.
  - (4) Adding together the percentage determined in accordance with subsections (b)(1) through (3) 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 the total.
  - (5) A factor is applicable, even though it may be apportioned entirely inside the City, but it is not applicable if entirely apportioned outside the City.
  - (6) However, in the event a just and equitable result cannot be obtained under the apportionment provided for, the Administrator upon application of the taxpayer, shall under uniform regulations have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in subsection (b) of this section, “sales made in the City” means:
- (1) All sales of tangible personal property delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.

- (2) All sales of tangible personal property delivered with the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
  - (3) All sales of tangible personal property shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (d) Operating Loss Carry Forward.
- (1) The portion of a net operating loss sustained in any taxable year subsequent to October 1, 1959, apportioned to the City which has been detailed in a return submitted to the Tax Administrator within four months of the close of the calendar or fiscal year in which such loss occurred may be applied against the portion of the profit of succeeding year(s) apportioned to the City, until exhausted, but in no event for more than three taxable years. 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 City in the same manner as provided herein for allocating net profits to the City.
  - (3) Losses from the operation of a business or profession are not deductible from employee earnings (W-2 or 1099-MISC) but may be carried forward and applied to net profits as provided in this chapter.
  - (4) The Administrator shall provide, by rules and regulations, the manner in which such net operation loss carry forward shall be determined.
- (e) Consolidated Returns.
- (1) Filing of consolidated returns, providing they clearly show the income and expenses attributable to this Municipality alone, may be permitted, required or denied in accordance with rules and regulations prescribed by the Administrator.
  - (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related to stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the City, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds net profits are not properly allocated to the City by reason of transactions with stockholders, or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory, or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

- (f) Exceptions. The tax provided herein shall not be levied upon:
- (1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service; or
  - (2) Proceeds of insurance, annuities, Workers' Compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages; or
  - (3) Dues, contributions and similar payments received by charitable, religious, education organizations, or labor unions, trade or professional associations, lodges and similar organizations; or
  - (4) Gain from involuntary conversion, cancellation of indebtedness, interest on federal obligations and income of decedent's estate during the period of administration (except such income from the operation of a business); or
  - (5) Alimony; or
  - (6) Compensation for damage to property by way of insurance claim; or
  - (7) Interest and dividends from intangible property; or
  - (8) The military pay or allowance of members of the armed forces of the United States; or
  - (9) The net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01, to the extent that such net profits are exempted from Municipal income taxes under such section; or
  - (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder; or
  - (11) In the event any association or organization receives taxable income provided in the preceding paragraph from real or personal property ownership or income producing business located both within and outside the City limits, it shall calculate its income apportioned to the City under the method or methods provided above; or
  - (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from municipal income tax; or
  - (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
  - (14) The compensation of persons serving as precinct elections officials, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) shall be subject to taxation. The payer of such compensation is not required to withhold City tax from that compensation; or
  - (15) Employees of a transit authority, regional transit authority, or regional transit commission under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regular scheduled route, the operator is subject to tax by reason of residence or domicile in the municipal corporation or the headquarters of the authority or commission is located within the municipal corporation; or

- (16) The compensation of a nonresident individual if the compensation is paid for personal services performed by the individual in the City on twelve (12) or fewer days during the calendar year, and, in the case of an individual who is an individual who is an employee, the principal place of business of the individual's employer is located outside of the City and the individual pays tax on compensation described above, to the City, if any, in which the employer's principal place of business is located, and no portion of the tax is refunded to the individual. The individual is not a professional entertainer or professional athlete, the promoter of entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the City.
- (17) Any compensation arising from the grant, sale, exchange or other disposition of stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under the stock option.
- (18) The income from a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company and the income of a telephone company or combined company, as defined in Ohio R.C. 5727.01, shall be levied by the municipal ration subject to Chapter 5745 of the Ohio Revised Code.
- (19) Generally the above noted items in this section are the only forms of income not subject to tax. Any other income, benefits or other forms of compensation shall be taxable.  
(Ord. 179-03. Passed 11-24-03.)

#### 181.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected, and paid with respect to all income and net profits subject to the tax earned on or after January 1, 1971.  
(Ord. 16-81. Passed 1-12-81.)

#### 181.05 RETURN AND PAYMENT OF TAX.

(a) Every person subject to the provisions of Section 181.03 (a) and every resident, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of each year prior to tax year 2004 and April 15 of each year thereafter. When the return is made for a fiscal year or other period different from a calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is 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 qualifying wages, commissions, or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income subject to tax under this chapter is such qualifying wages, commissions or other compensation.

- (1) Exception. No resident under the age of sixteen shall be required to file an annual return unless said resident is subject to the provisions of subsection 181.03(a) of this Chapter.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the City return regardless of whether their federal and state returns were filed separately or jointly. If a joint City return is made, the tax shall be computed on the aggregated taxable income and the liability with respect to the tax shall be joint and several.

(c) The return shall be filed with the Administrator on a form or forms furnished by or acceptable to the Administrator, setting forth:

- (1) The aggregate amounts of qualifying wages, commissions earned by him, and gross income from business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax.
- (2) The amount of the tax imposed by this chapter on such earnings and profits.
- (3) Such other pertinent statements, information returns or other information as the Administrator may require.
- (4) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to the Municipality alone.
- (5) The City shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of the information required to be submitted with the City's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the City governing the filing of returns, reports or documents.

(d) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer by filing a copy of the taxpayer's request for federal extension. Any taxpayer not required to file a federal income tax return may request an extension for filing the City's tax return in writing. All requests for extensions shall be filed no later than the last day for filing the City's tax return as prescribed by ordinance or rule of the municipal corporation. A valid extension request extends the due date for filing a return to the last day of the month following the month to which the due date of the federal income tax return has been extended. The Administrator 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 shall be assessed in those cases in which the return is filed and the final tax is paid within the period as extended; however, the Tax Administrator shall charge interest at a rate of one percent (1%) per month where a tentative return is not accompanied by a payment consistent with the previous year's tax paid. The Administrator may deny the taxpayer's request for extension if the taxpayer fails to timely file the request, fails to file a copy of the federal extension request (if applicable), owes the City any delinquent income tax or any penalty, interest, assessment or other charge for late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period.

- (e) (1) The taxpayer making a return shall, at the time of filing, pay to the Administrator the amount of taxes shown as due. However, where any portion of the tax due shall have been deducted at the source, pursuant to Section 181.06, or where any portion of the tax shall have been paid by the taxpayer pursuant to Section 181.07, or where an income tax has been paid to another Municipality, credit for the amount so paid in accordance with Section 181.13 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 the return.

- (2) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter, may have the overpayment applied against any subsequent liability hereunder, or, at his election indicated on the return, the overpayment, or part thereof, shall be refunded. No additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
- (f) (1) Where necessary, an amended return must 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/or limitations contained in Sections 181.11 and 181.15. Amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's City tax liability, the taxpayer shall make and file an amended City return showing income subject to the City tax, based on the final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment. (Ord. 179-03. Passed 11-24-03.)

#### 181.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City, shall deduct, at the time of the payment of the salary, wage, commission, or other compensation, the tax of one and one half percent (1-1/2%) of the gross salaries, wages, commission, or other compensation due by the employer to the employee; and, when the amount of taxes so deducted by an employee exceeds three hundred dollars (\$300.00) in any calendar month, such employer shall make a return and pay to the Administrator the amount of taxes so deducted on or before the fifteenth (15th) day of the month following such withholding. All other employers shall make a return and pay to the Administrator the amount of taxes so deducted on or before the last day of the month following the close of each calendar quarter. The Tax Administrator may revoke the approval of quarterly filing and payments whenever he 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 City 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. Returns shall be on a form or forms prescribed by or acceptable to the Administrator, and shall be subject to the rules and regulations prescribed by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the taxes have, in fact, been withheld.

(b) The employer, in collecting the tax, shall be deemed to hold it, until payment is made by the employer to the City, as a trustee for the City, and any tax collected by the employer from his employees shall, until it is paid to the City, be deemed a trust fund in the hands of the employer. (Ord. 179-03. Passed 11-24-03.)

(c) An employer may report the amount of municipal income tax withheld from qualifying wages paid on or after January 1, 2007, and may remit such amounts, by using the Ohio Business Gateway. Employers shall make payment by electronic funds transfer to the Administrator of the Municipal Income Taxes withheld on qualifying wages. Payment of taxes by electronic funds transfer does not affect employer's obligation to file the return as required under Section 181.06(e), except as otherwise provided in this paragraph.

(d) The Administrator shall adopt rules governing the remittance of withheld municipal income taxes by electronic funds transfer as required by this chapter. The Administrator may grant an exemption to an employer from the duty to make payments by electronic funds transfer upon application for such exemption by the employer and the employer's demonstration to the Administrator that the requirement to make payments by electronic funds will impose a hardship upon the employer. The Administrator may implement means of acknowledgment upon request of a taxpayer, receipt of electronic tax remittances. The person requesting acknowledgment shall pay the cost of acknowledging receipt of electronic remittances.

(e) On or before February 28, of each year, each employer shall file a withholding return on a form or forms prescribed by, and obtainable from the Administrator, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of tax withheld from the listed employees, and such other information as may be required by the rules and regulations adopted by the Tax Administrator. Employers who are required to submit IRS Form W-2 information electronically for Federal Tax purposes shall submit the information required by the municipality in electronic format. The submission of required information in an electronic format does not affect an employer's obligation to file the returns as required under this section, except as otherwise provided in this paragraph. The Administrator shall adopt rules governing the submission of the information required by this section. The Administrator may grant an exemption to an employer from the duty to submit the required information electronically upon application for such exemptions by the employer and the employer's demonstration to the Administrator that the requirement to submit such information will impose a substantial hardship upon the employer. In addition to the wage reporting requirements of this section, any business 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 Administrator when the services were performed in the Municipality. The information may be submitted on a listing that shall include the individual's name, address, social security number (or federal identification number), and the amounts of fee 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 the calendar year in which such payments are made.

(f) However, no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about the person's residence. (Ord. 137-07. Passed 11-12-07.)

#### 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 the estimated income or the estimated profit or loss from the business activity, together with the estimated tax due, if any. However, if a taxpayer's income is wholly from qualifying wages from which the tax shall be withheld and remitted to the City in accordance with Section 181.06, the person need not file a declaration.

- (b) (1) The declaration shall be filed on April 30 of each year prior to tax year 2004 and on April 15 of each year thereafter, or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

- (c) (1) The declaration shall be filed on a form furnished by, or obtainable from the Administrator. However, credit shall be taken for City tax to be withheld from any portion of the income. Credit may be taken for tax to be paid to or to be withheld and remitted to another taxing Municipality in accordance with Section 181.13.
- (2) A declaration of estimated tax to be paid the City shall be accompanied by a payment of at least twenty-two and one-half percent of the estimated tax liability for the current year, less credit for taxes withheld or paid to another Municipality 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 tax year.
- (3) The original declaration, or any subsequent amendment, may be increased or decreased on or before any subsequent quarterly payment date, as provided for herein.

(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 the year underestimated the taxpayer's income by ten percent (10%) or more. At that time a payment which, together with prior payments, is sufficient to pay taxpayer's entire estimated liability shall be made. If, on filing the return required by Section 181.05, it appears that the taxpayer did not pay ninety percent (90%) of his tax liability, as shown on the return, on or before January 31, or the date fixed by regulation, whichever is applicable, the difference between ninety percent (90%) 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 last day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith, in accordance with the provisions of Section 181.05. (Ord. 179-03. Passed 11-24-03.)

#### 181.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) There is hereby created a subdepartment within the Finance Department to be entitled the Fairfield Income Tax Division for the administration of the provisions of this chapter. Such Division shall consist of a Tax Commissioner or Administrator, Deputy Tax Commissioner or Administrator and such clerical and secretarial personnel as may be determined to be necessary for the administration of this chapter, all of whom shall be appointed as provided for in the City Charter.
- (2) It shall be the duty of the City Tax Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof and to report all moneys so received.
- (3) It shall be the duty of the Administrator to enforce payment of all taxes owing the City, to keep accurate records for a minimum of five years, showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld and to show the dates and amounts of payments thereof.

- (b) (1) The Administrator is 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 relating to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
- (2) The Administrator is authorized to arrange for the payment of unpaid taxes, interest, and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. The authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter. Failure to make any deferred payment when due shall cause the total amount unpaid, including penalty and interest, to become payable on demand, and the provisions of Sections 181.10, 181.11 and 181.99 shall apply.

(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 Administrator may determine the amount of tax which appears to be due the City from the taxpayer, and shall send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Administrator shall have the power to abate any interest or penalty imposed by this chapter. (Ord. 179-03. Passed 11-24-03.)

#### 181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records, and Federal Income Tax Returns of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made; or, if no return was made, to ascertain the tax due under this chapter. Every employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, on written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making the examinations and investigations as are hereby authorized. (Ord. 16-81. Passed 1-12-81.)

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him, and may examine the person, under oath, concerning any income which was or should have been returned for taxation, or any transaction tending to affect such income; and for this purpose may compel the production of books, papers, records and federal, State, County and Municipal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of the income or information pertinent to such inquiry. (Ord. 108-83. Passed 7-25-83.)

(c) The refusal to produce books, papers, records and Federal Income Tax Returns, or the refusal to submit to the examination, by any employer or person subject or presumed to be subject to the tax or 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 any order of subpoena of this chapter, shall be punishable as provided in Section 181.99.

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

(e) Any information gained as a result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential, except for disclosure to Municipal, County, State or Federal taxing agencies, and except for official purposes as the Law Director shall determine and except in accordance with proper judicial order. Whoever divulges such information in violation of this section shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosure of confidential information shall be subject to immediate dismissal. (Ord. 16-81. Passed 1-12-81.)

#### 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, and remaining unpaid after they have become due, shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1%) 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 and to file a tax return 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 the higher of:
  - A. Fifty dollars (\$50.00); or
  - B. Two percent (2%) per month, or fraction thereof, of the amount of the unpaid tax, if the tax is paid during the first year after such tax became due, and five percent (5%) per month, or fraction thereof, of the amount of unpaid tax, if the tax is paid later than one year after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.
- (2) In the case of employers who fail to withhold and remit to the Administrator, the taxes to be withheld from employees, a penalty of the higher of:
  - A. One hundred dollars (\$100.00); or
  - B. Five percent (5%) per month, or fraction thereof, of unpaid withholding if paid after such tax became due. The percentage herein specified, when used, shall apply from the first month of delinquency.
- (3) In the case of taxpayers who fail to file a return as required by subsection 181.05(a), a penalty of two hundred dollars (\$200.00).

(c) A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid within the time prescribed by the Administrator. Provided, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided an amended return is filed, and the additional tax is paid within three months after the final determination of the federal tax liability. (Ord. 179-03. Passed 11-24-03.)

**181.11 COLLECTION OF UNPAID TAXES; REFUND OF OVERPAYMENTS.**

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties, by suit, as other debts of like amounts are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator 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 years from the date on which the payment was made or the return was due, or within three months after final determination of the federal tax liability, whichever is later.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 16-81. Passed 1-12-81. )

**181.12 BOARD OF REVIEW.**

(a) A Board of Review, consisting of the Law Director, and two other qualified electors of the City to be appointed by the City Manager of the City, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules, elect its own chairman, 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. Hearings requested by a taxpayer before the 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.

(b) All rules and regulations, and amendments or changes which are adopted by the Administrator under the authority conferred by this chapter, shall be approved by the Board of Review before the same shall become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Whenever the Tax Administrator 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 City, the Tax Administrator shall notify the taxpayer 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.

(d) Any person aggrieved by any ruling or decision of the Administrator and who has filed with the City the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.

(e) The imposition of penalty and interest as prescribed by the Codified Ordinances of the City 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. 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 decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision. (Ord. 179-03. Passed 11-24-03.)

#### 181.13 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a Municipal income tax in another municipality, or in a joint economic development district or zone, 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 City who receives net profits, salaries, wages, commissions, personal service compensation, any other type of compensation, or other income from a resident or nonresident business entity or association of which he is partner or owner, for work done, or services performed or rendered outside the City, if he or such business entity has paid another Municipal or Joint Economic Development District or Zone income tax on or with respect to the same income taxable under this chapter to another municipality or Joint Economic Development District or Zone, shall be allowed a credit against the tax imposed by this chapter. In no event, however, shall any municipal income tax or any Joint Economic Development District or Zone income tax to the extent paid to another municipality or to a Joint Economic Development District or Zone and allowed as credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. The amount of credit allowed shall not exceed the rate of tax imposed by this chapter. Determination of credit shall be calculated as follows:

- (1) Tax credit for taxes paid to another City is limited to the income determined to be taxable by the Administrator or designee. The credit allowed is limited to the income taxed by another City. The credit allowed for taxes paid to another Municipality whose rate is higher than Fairfield's rate is calculated by dividing the tax withheld by that City's tax rate and multiplying that income by the tax rate imposed by this chapter. A taxpayer who pays a tax to a City whose rate is less than the tax rate imposed by this chapter shall only receive credit for the tax paid. No excess tax withheld for a Municipality whose rate is higher than Fairfield's rate shall apply to income taxed by another Municipality whose rate is lower than Fairfield's rate.
- (2) Tax credit for taxes paid by a resident on his net profits shall be limited to the income determined to be taxable by the Administrator or designee. If the taxpayer pays directly to another Municipality for his unincorporated entity but has additional unincorporated entities sustaining losses, the tax credit allowed will be reduced to the net taxable income recognized by the City. No taxes paid to another Municipality will be credited or refunded or applied to other income of the taxpayer in such cases.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may, by regulation, provide.

(d) Except as provided in subsection (e) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(e) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (d) hereof shall be calculated using the tax rate in effect in the second municipal corporation.

(f) Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts or Zones if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District or Zone contract or specifically amends this chapter.

(g) The Finance Director shall, subject to the approval of Council, have the authority to enter into an agreement with another political subdivision for the division of the tax imposed on the qualifying wages, commissions, other compensation and other income received by residents or nonresidents of the City.  
(Ord. 179-03. Passed 11-24-03.)

#### 181.14 REPORTS REQUIRED ON TENANTS AND LESSEES.

(a) The owner, manager, or any person in control who rents or leases to other persons, real estate for any purpose in the City must make a report within thirty (30) days after a new tenant occupies rental property of any kind within the City to the Administrator of the identity of their tenants, lessees, or other occupants of the real estate, and the address and telephone number, if available, of the same. The property owner, manager, or any person in control of a vacated rental property shall file within thirty (30) days after the tenant vacates, a report showing the date of vacation from the rental property and a forwarding address, if available.

(b) Any owner, manager, or person in control of the real estate who fails to make the report of lessees, tenants, or occupants of premises under their control as required in subsection (a) hereof, shall be fined up to a maximum of one hundred dollars (\$100.00).  
(Ord. 193-00. Passed 11-27-00.)

#### 181.15 SEVERABILITY.

(a) If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, 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.

(b) All provisions, sentences, clauses, sections or other parts of this chapter are hereby declared to be severable. (Ord. 16-81. Passed 1-12-81.)

## 181.99 PENALTY.

(a) Whoever shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make an incomplete, false or fraudulent return; or
- (3) 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 or remit such withholding to the Tax Administrator; or
- (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or his employer's books, records, papers and Federal Income Tax Return; or
- (6) Fail to appear before the Tax Administrator and produce his or his employer's books, records, papers or Federal Income Tax Returns upon order or subpoena of the Tax Administrator; or
- (7) Refuse to disclose to the Tax Administrator 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 Administrator; or
- (9) 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; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and City tax withheld; or to knowingly give the Administrator false information;

shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than sixty (60) days, or both.

(b) All prosecutions under this chapter shall be commenced within three 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 limitations of time within which prosecution shall 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 or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return of declaration, from filing such form or from paying the tax.

(d) The term "person", as used in this chapter, shall, in addition to the meaning prescribed in Section 181.02, include in the case of an association or corporation not having any partner, member or officer within the City, any employee or agent of such association or corporation who can be found within the corporate limits of the City.  
(Ord. 16-81. Passed 1-12-81.)