

ORDINANCE NO. 03-2010
(As Amended)

To Amend Sections 1703.01 and 1703.06 of the Codified Ordinances of the City of Worthington to Provide for an Additional Fifty-One Hundredths of One Percent (0.50%) Per Annum Levy on Income Commencing on the 1st day of July 2010 for the Purposes of General Municipal Operations, Maintenance, New Equipment, and Capital Improvements and to Amend Section 1703.01 and 1703.03 of the Codified Ordinances of the City of Worthington to Provide for the 1st day of July 2010 as the Effective Date of Such Additional Levy on Income.

WHEREAS, the City of Worthington currently levies a 2.00% per annum tax on (1) all qualifying wages, salaries, commissions and other compensation earned by residents of the City; (2) all qualifying wages, salaries, commissions and other compensation earned by nonresidents of the City for work done or services performed or rendered in the City; (3) the net profits of all unincorporated businesses, professions or other activities conducted by residents of the City; (4) the net profits earned of all unincorporated businesses, professions or other activities conducted in the City by nonresidents; and (5) the net profits of all corporations, estates, and trusts derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates and trusts have their principal or any place of business located in the City; and,

WHEREAS, the City of Worthington grants to every individual taxpayer who resides in the City a credit in the total amount of any income tax paid by such taxpayer to another municipality to the extent of the tax assessed by the City; and,

WHEREAS, the City of Worthington has determined that it is necessary to increase the current rate of income tax levied, as set forth above, from two Percent (2.00%) to two and one half percent (2.50%) while retaining the credit granted to individual resident taxpayers as set forth above, for the purposes of general Municipal operations, maintenance, new equipment and capital improvements;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That effective the 1st day of July 2010 Sections 1703.01, 1703.03 and 1703.06 of the Codified Ordinances of the City of Worthington be and the same hereby are amended to read as follows:

1703.01 IMPOSITION OF TAX.

To provide for the purposes of general Municipal operations, maintenance, new equipment and capital improvements of the City, there is hereby levied a tax at the rate of Two and One Half Percent (2.50%) per annum upon the following:

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- (a) On all qualifying wages, salaries, commissions and other compensation earned on and after July 1, 2010.
- (b) On all qualifying wages, salaries, commissions and other compensation earned on and after July 1, 2010 by nonresidents of the City for work done or services performed or rendered in the City.
- (c)
 - (1) On the net profits earned on and after July 1, 2010 of all unincorporated businesses, professions or other activities conducted by residents of the City.
 - (2) On the net profits earned on and after July 1, 2010 of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.
 - (3) For the purposes of subsections (c)(1) and (c)(2) above, an association shall be taxed as an entity, on the net profits of the association derived from the work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1999.
 - (4) For the purposes of subsection (c)(1) above, a resident of the City who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) above, effective for all accounting periods commencing on or after January 1, 1999.
- (d) On the net profits on and after July 1, 2010 of all corporations, estates, and trusts derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates, and trusts have their principal or any place of business located in the City.
- (e) On a resident's entire share, whether distributed or not, of the net profits of a Subchapter S corporation as defined in Section 1361 of the Internal Revenue Code. If a resident is a shareholder in two or more Subchapter S corporations to be included in the same return, the resident's share of the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the resident's share of the profits of another Subchapter S corporation for purposes of arriving at overall net profits derived from Subchapter S corporations. Credit on the tax imposed by this paragraph shall be given for tax paid on the resident's share of the net profits of a Subchapter S corporation under Sections 1703.01(d) and 1707.01 of this Taxation Code. The tax imposed under this paragraph is effective for all accounting periods commencing on or after January 1, 2001.

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1703.03 LEVY OF TAX.

The income tax at the rate of one percent (1.00%) shall be levied, collected, and paid with respect to the salaries, wages, commissions, and other compensation earned on or before December 31, 1993, and with respect to the net profits of businesses, professions, or other activities earned on or before December 31, 1993. The income tax at the rate of one and sixty-five hundredths of one percent (1.65%) shall be levied, collected, and paid with respect to the salaries, wages, commissions, and other compensation earned on or after January 1, 1994, and with respect to the net profits of businesses, professions, or other activities earned on or after January 1, 1994. The income tax at the rate of two percent (2.00%) shall be levied, collected, and paid with respect to the salaries, qualifying wages, commissions, and other compensation earned on or after January 1, 2004, and with respect to the net profits of businesses, professions, or other activities earned on or after January 1, 2004. The income tax at the rate of 2.50% shall be levied, collected, and paid with respect to the salaries, qualifying wages, commissions, and other compensation earned on or after July 1, 2010. Where the fiscal year of the business, profession, or other activity differs from the calendar year, the tax at the rate of one percent (1.00%) shall be applied to that part of the net profits for the portion of the fiscal year occurring before January 1, 1994. The tax at the rate of one and sixty-five hundredths of one percent (1.65%) shall be applied to that portion of the fiscal year occurring on and after January 1, 1994. The tax at the rate of two percent (2.00%) shall be applied to that portion of the fiscal year occurring on and after January 1, 2004. The tax at the rate of 2.50% shall be applied to that portion of the fiscal year occurring on and after July 1, 2010.

Where the fiscal years of a business, profession or other activity is other than a calendar year, in computing the tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve (12) and multiplying the quotient by the number of months of the fiscal year between October 1, 1971, through December 31, 1993, multiplying the quotient by the number of months of the fiscal year between January 1, 1994 and December 31, 2003, multiplying the quotient by the number of months of the fiscal year between January 1, 2004 and June 30, 2010, and multiplying the quotient by the number of months of the fiscal year between July 1, 2010 and thereafter, and applying the appropriate tax rate to each.-

1703.06 COLLECTION AT SOURCE.

- (a) Each employer within or doing business within the City shall deduct at the time of payment of such salaries, qualifying wages, commissions or other compensation as defined in Section 1701.18 of this Taxation Code, the tax of Two and One-Half percent (2.50%) of the gross salaries, qualifying wages, commissions or other compensation due by the said employer to the said employee and shall, on or before February 28th, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the year have been paid to the City in accordance with the

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payment schedule prescribed by subsection (c) hereof. 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. Every employer or officer of a corporation is deemed to be a trustee for this Municipality in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.

- (b) In the case of employees who are non-resident professional athletes, the deduction and withholding of personal service compensation shall attach to the entire amount of qualifying wages, salaries, and other compensation received for games that occur in the taxing community. In the case of a non-resident athlete not paid specifically for the game played in a taxing community, the following apportionment formula must be used: The wages, salaries and other compensation earned and subject to tax is the total income earned during the taxable year, including incentive payments, signing bonuses, reporting bonuses, incentive bonuses, roster bonuses and other extras, multiplied by a fraction, the numerator of which is the number of exhibition, regular season and post-season games the athlete played (or was available to play for his team, as an example, with substitutes), or was excused from playing because of injury or illness, in the taxing community during the taxable year, and the denominator of which is the total number of exhibition, regular season, and post-season games which the athlete was obligated to play under contract or otherwise during the taxable year, including games in which the athlete was excused from playing because of injury or illness. Exhibition games are only those games played before a paying audience, and played against another professional team from the same professional league. In the case of non-resident salaried athletic team employees who are not professional athletes, deduction and withholding shall attach to qualifying wages, salaries and other compensation earned for personal services performed in the City.
- (c) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

- (1) Semimonthly payments of the taxes deducted are to be made by an employer if:
- (a) The total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more; or
 - (b) The amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be paid to the City within five banking days after the fifteenth and the last day of each month.

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- (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000.00) but more than one thousand one hundred ninety-nine dollars (\$1,199.00) or if the taxes withheld during any month of the preceding quarter exceeded one hundred dollars (\$100.00). Commencing with taxable years subsequent to December 31, 1998 monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000.00) but more than three thousand five hundred ninety nine dollars (\$3,599.00), or if taxes withheld during any month for the preceding quarter exceeded three hundred dollars (\$300.00). Such payments shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this paragraph need not be paid until the last day of the month following such quarter.
- (3) All employers not required to make semimonthly or monthly payments of taxes withheld under (1) and (2) of this subsection shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (d) Each employer who maintains a place of business in the City and another branch within the metropolitan area of the City shall also withhold the tax from the employees residing in the City but working at the employer's metropolitan area branch, even though the payroll records and place of payment are outside the City.
- (e) The employer shall make and file Form 17 furnished by the Department of Taxation, showing the amount of tax deducted by said employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the City. The Form 17 shall also reconcile to prior remittances and returns filed by the employer for such tax year with respect to taxes withheld. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this Taxation Code is the salaries, wages, commissions and other compensation returned by the employer.
- (f) Each employer on or before February 28, unless written request for thirty days extension is made to and granted by the Administrator following any calendar year in which such deductions have been made or should have been made by such employer shall file with the Administrator an information return (Worthington Withholding Statement of Wages Paid, and Worthington Income Tax Withheld), for each employee from whom income tax has been or should have been withheld, showing the name and address of the employee,

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the total amount of salaries, wages, commissions and other compensation paid said employee during the year, and the amount of City income tax withheld from each employee.

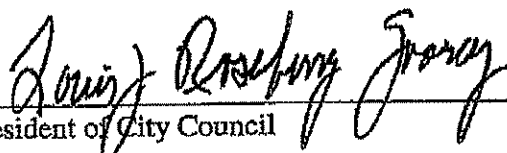
- (g) Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.
- (h) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

SECTION 2. That the provisions of "Part Seventeen – Taxation Code" of the Codified Ordinances of the City of Worthington now in effect and not specifically amended by this Ordinance shall remain in full force and effect.

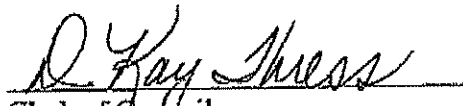
SECTION 3. That notice of the passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed by the Electorate on the
4th day of May 2010:

Passed June 7, 2010


President of City Council

Attest:


Clerk of Council

Introduced February 1, 2010
P.H. February 8, 2010
Tabled February 8, 2010
Effective July 1, 2010

ORDINANCE NO. 43-2008

To Amend Existing Sections 1701.01, 1701.15 and 1703.01 of the Taxation Code (Codified Ordinances of the City of Worthington).

WHEREAS, the City of Worthington has undertaken a review of certain definitions of Chapter 1701 and Chapter 1703 of the Codified Ordinances of the City of Worthington determining that amendments are merited thereto; and,

WHEREAS, the enactment of these amendments shall promote the interests of the effective enforcement of Chapter 17 as well as enhance administrative efficiency;

NOW, THEREFORE, BE IT ORDAINED by the Council of Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. The following amends Section 1701.01 of the Codified Ordinances of the City of Worthington:

1701.01 ADJUSTED FEDERAL TAXABLE INCOME.

“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:

- a. 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;
- b. Add an amount equal to five percent (5%) of intangible income deducted under division 1701.01 (a) 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;
- c. 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;
- d.
 1. Except as provided in part 1701.01 (d)(2) 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;
 2. Part 1701.01 (d)(1) 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.

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- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. 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;
- g. 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:
 - 1. 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
 - 2. 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 section 1701.01 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 section shall be construed as limiting or removing the ability of the City to administer, audit, and enforce the provisions of the City's Income Tax Code.

SECTION 2. The following amends Section 1701.15 of the Codified Ordinances of the City of Worthington:

1701.15 NET PROFIT.

"Net profit" means for a taxpayer other than an individual, the adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on Federal Schedules C, E, or F, excluding those amounts exempted by Section 718.01 (F) of the Ohio Revised Code.

SECTION 3. The following amends Section 1703.01 of the Codified Ordinances of the City of Worthington:

1703.01 IMPOSITION OF TAX.

To provide for the purposes of general Fire Department operations and general Municipal operations, maintenance, new equipment and capital improvements of the City, there is hereby levied a tax at the rate of Two Percent (2%) per annum upon the following:

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- (a) On all qualifying wages, salaries, commissions and other compensation earned on and after January 1, 2004, by residents of the City.
- (b) On all qualifying wages, salaries, commissions and other compensation earned on and after January 1, 2004, by nonresidents of the City for work done or services performed or rendered in the City.
- (c)
 - (1) On the net profits earned on and after January 1, 2004, of all unincorporated businesses, professions or other activities conducted by residents of the City.
 - (2) On the net profits earned on and after January 1, 2004, of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.
 - (3) For the purposes of subsections (c)(1) and (c)(2) above, an association shall be taxed as an entity, on the net profits of the association derived from the work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1999.
 - (4) For the purposes of subsection (c)(1) above, a resident of the City who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) above, effective for all accounting periods commencing on or after January, 1999.
- (d) On the net profits on and after January 1, 2004, of all corporations, estates, and trusts, derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates, and trusts have their principal or any place of business located in the City.
- (e) On a resident's entire share, whether distributed or not, of the net profits of a Subchapter S corporation as defined in Section 1361 of the Internal Revenue Code. If a resident is a shareholder in two or more Subchapter S corporations to be included in the same return, the resident's share of the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the resident's share of the profits of another Subchapter S corporation for purposes of arriving at overall net profits derived from Subchapter S corporations. Credit on the tax imposed by this paragraph shall be given for tax paid on the resident's share of the net profits of a Subchapter S corporation under Sections 1703.01(d) and 1707.01 of this

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Taxation Code. The tax imposed under this paragraph is effective for all accounting periods commencing on or after January 1, 2001.

- (f) Payments made to current and former employees by an employer as accrued benefits and/or vacation wages are taxable. Payments made to any current or former employee by an employer under a wage continuation plan during periods of disability or sickness, are taxable.

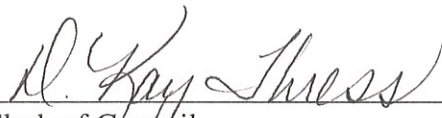
SECTION 4. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed October 20, 2008



President of Council

Attest:



Clerk of Council

Introduced October 6, 2008
P.H. October 20, 2008
Effective November 12, 2008

CODIFIED ORDINANCES OF WORTHINGTON
PART SEVENTEEN – TAXATION CODE

TITLE ONE – Income Tax

- Chap. 1701. Definitions.
- Chap. 1703. Imposition of Collection of Tax; Returns and Refunds.
- Chap. 1705. Powers and Duties of Administrator.
- Chap. 1706. Board of Tax Appeals.
- Chap. 1707. Credits and Exemptions; City Contracts.
- Chap. 1709. Penalties and Interest.
- Chap. 1711. Allocation of Funds.
- Chap. 1713. Violations and Penalty.

CHAPTER 1701
Definitions

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| <p>1701.01 Adjusted federal taxable income.</p> <p>1701.02 Application.</p> <p>1701.03 Administrator.</p> <p>1701.04 Association.</p> <p>1701.05 Board of Tax Appeals.</p> <p>1701.06 Business.</p> <p>1701.07 Corporation.</p> <p>1701.08 Employee.</p> <p>1701.09 Employer.</p> <p>1701.10 Fiscal Year.</p> <p>1701.11 Generic Form.</p> <p>1701.12 Gross Receipts.</p> <p>1701.13 Intangible Income.</p> <p>1701.14 Internal Revenue Code.</p> <p>1701.15 Net Profit.</p> <p>1701.16 Nonqualified Deferred Compensation Program.</p> | <p>1701.17 Nonresident Individual.</p> <p>1701.18 Nonresident Unincorporated Business Entity.</p> <p>1701.19 Person.</p> <p>1701.20 Place of Business.</p> <p>1701.21 Qualifying Wages.</p> <p>1701.22 Resident Individual.</p> <p>1701.23 Resident Unincorporated Business Entity.</p> <p>1701.24 S Corporation.</p> <p>1701.25 Singular and Plural; Gender.</p> <p>1701.26 Taxable Income.</p> <p>1701.27 Taxable Year.</p> <p>1701.28 Taxpayer.</p> |
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CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII Sec. 3, CHTR. Sec. 2.07(8)
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- Taxation Department, establishment and Director - see ADM. 147.01

1701.01 ADJUSTED FEDERAL TAXABLE INCOME.

“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:

- a. 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;
- b. Add an amount equal to five percent (5%) of intangible income deducted under division 1701.01 (a) 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;
- c. 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;
- d.
 1. Except as provided in part 1701.01 (d)(2) 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;
 2. Part 1701.01 (d)(1) 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.
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. 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;
- g. 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:
 1. 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
 2. 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 section 1701.01 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 section shall be construed as limiting or removing the ability of the City to administer, audit, and enforce the provisions of the City's Income Tax Code.
(Ord. 53-2004. Passed 12-06-04)

1701.02 APPLICATION.

As used in this Part Seventeen - Taxation Code, the following words shall have the meanings ascribed to them in this chapter, except as and if the context clearly indicates or requires a different meaning. (Ord. 24-2002. Passed 6-17-02.)

1701.03 ADMINISTRATOR.

"Administrator" means the individual designated by this Taxation Code to administer and enforce the provisions of this Code. (Ord. 24-2002. Passed 6-17-02.)

1701.04 ASSOCIATION.

"Association" means a partnership, limited partnership, S Corporation or any other form of unincorporated enterprise owned by one or more persons. (Ord. 53-2004. Passed 12-06-04.)

1701.05 BOARD OF TAX APPEALS.

"Board of Tax Appeals means the Board created by and constituted as provided for in Chapter 1706. (Ord. 53-2004. Passed 12-06-04.)

1701.06 BUSINESS.

"Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal, or mixed. (Ord. 53-2004. Passed 12-06-04.)

1701.07 CORPORATION.

"Corporation" means a corporation or joint stock association organized under the laws of the United States, State of Ohio or any other state, territory or foreign country or dependency.
(Ord. 24-2002. Passed 6-17-02.)

1701.08 EMPLOYEE.

"Employee" means one who works for wages, salary, commissions or other type of compensation in the service and under the control of an employer. (Ord. 24-2002. Passed 6-17-02.)

1701.09 EMPLOYER.

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

(Ord. 24-2002. Passed 6-17-02.)

1701.10 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 24-2002. Passed 6-17-02.)

1701.11 GENERIC FORM.

"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 the City for the reporting of the City's tax on income.

(Ord. 53-2004. Passed 12-06-04.)

1701.12 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatsoever.

(Ord. 24-2002. Passed 6-17-02.)

1701.13 INTANGIBLE INCOME.

"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.

(Ord. 53-2004. Passed 12-06-04.)

1701.14 INTERNAL REVENUE CODE.

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

(Ord. 53-2004. Passed 12-06-04.)

1701.15 NET PROFIT.

"Net profit" means for a taxpayer other than an individual, the adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts required to be reported on schedule C, schedule E, or schedule F.

(Ord. 53-2004. Passed 12-06-04.)

1701.16 NONQUALIFIED DEFERRED COMPENSATION PLAN.

“Nonqualified deferred compensation plan” means a compensation plan described in section 3121(v)(2)(c) of the Internal Revenue Code.
(Ord. 53–2004. Passed 12-06-04.)

1701.17 NONRESIDENT INDIVIDUAL.

"Nonresident individual" means an individual who is not domiciled in the City or whose usual place of abode is outside the City. (Ord. 24-2002. Passed 6-17-02.)

1701.18 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City. (Ord. 24-2002. Passed 6-17-02.)

1701.19 PERSON.

"Person" means every natural person, partnership, fiduciary, firm, company, business trust, estate, trust, limited liability company, governmental entity, association, corporation, or any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof. (Ord. 53-2004. Passed 12-06-04.)

1701.20 PLACE OF BUSINESS.

"Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance. (Ord. 24-2002. Passed 6-17-02.)

1701.21 QUALIFYING WAGES.

“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.
(Ord. 53–2004. Passed 12-06-04.)

1701.22 RESIDENT INDIVIDUAL.

"Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City. (Ord. 24-2002. Passed 6-17-02.)

1701.23 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City. (Ord. 24-2004. Passed 6-17-02.)

1701.24 S CORPORATION.

“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.
(Ord. 53–2004. Passed 12-06-04.)

1701.25 SINGULAR AND PLURAL; GENDER.

The singular shall include the plural. The masculine gender shall include the feminine and the neuter genders. (Ord. 24-2002. Passed 6-17-02.)

1701.26 TAXABLE INCOME.

"Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Taxation Code. (Ord. 53-2004. Passed 12-06-04.)

1701.27 TAXABLE YEAR.

"Taxable year" means the calendar year or fiscal year upon the basis of which the net profits are to be computed under this Taxation Code 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. (Ord. 24-2002. Passed 6-17-02.)

1701.28 TAXPAYER.

"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. (Ord. 53-2004. Passed 12-06-04.)

CHAPTER 1703

Imposition and Collection of Tax; Returns and Refunds

1703.01 Imposition of tax.

1703.02 Allocations of net profits.

1703.03 Levy of tax.

1703.04 Return and payment of Tax.

1703.05 Amended return and

refunds for overpayment.

1703.06 Collection at source.

1703.07 Declarations.

CROSS REFERENCES

Power to levy income tax - see Ohio Const. Art. XVIII Sec. 3; CHTR. Sec. 2.07(8)

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

1703.01 IMPOSITION OF TAX.

To provide for the purposes of general Fire Department operations and general Municipal operations, maintenance, new equipment and capital improvements of the

City, there is hereby levied a tax at the rate of Two Percent (2%) per annum upon the following:

- (a) On all qualifying wages, salaries, commissions and other compensation earned on and after January 1, 2004, by residents of the City.
- (b) On all qualifying wages, salaries, commissions and other compensation earned on and after January 1, 2004, by nonresidents of the City for work done or services performed or rendered in the City.
- (c)
 - (1) On the net profits earned on and after January 1, 2004, of all unincorporated businesses, professions or other activities conducted by residents of the City.
 - (2) On the net profits earned on and after January 1, 2004, of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.
 - (3) For the purposes of subsections (c)(1) and (c)(2) above, an association shall be taxed as an entity, on the net profits of the association derived from the work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1999.
 - (4) For the purposes of subsection (c)(1) above, a resident of the City who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) above, effective for all accounting periods commencing on or after January, 1999.
- (d) On the net profits on and after January 1, 2004, of all corporations, estates, and trusts, derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates, and trusts have their principal or any place of business located in the City.
- (e) On a resident's entire share, whether distributed or not, of the net profits of a Subchapter S corporation as defined in Section 1361 of the Internal Revenue Code. If a resident is a shareholder in two or more Subchapter S corporations to be included in the same return, the resident's share of the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the resident's share of the profits of another Subchapter S corporation for purposes of arriving at overall net profits derived from Subchapter S corporations. Credit on the tax imposed by this paragraph shall be given for tax paid on the resident's share of the net profits of a Subchapter S corporation under Sections 1703.01(d) and

1707.01 of this Taxation Code. The tax imposed under this paragraph is effective for all accounting periods commencing on or after January 1, 2001. (Ord. 53-2004. Passed 12-06-04.)

1703.02 ALLOCATIONS OF NET PROFITS.

- (a) In the taxation of income which is subject to the tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for purposes of the tax. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of the tax in the same proportion as the average ratio of:
 - (1) The average net book value of the real and tangible personal property owned by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all of the real and tangible personal property owned by the taxpayer in the business or profession during the same period, wherever situated. 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 (8);
 - (2) Qualified wages, salaries and other compensation paid during the taxable period to persons employed in the business or professions for services performed in the City to qualified wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed; and
 - (3) 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.
- (b) In the event a just and equitable result cannot be obtained under the formula provided for herein, the Administrator, under application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- (c) As used in this Taxation Code, "sales made in the City" means:
 - (1) All sales of tangible personal property which is 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 which is delivered within the City, regardless of where title passes even though transported from a

point outside the City, if the taxpayer is regularly engaged through his 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 which is shipped from a place within the City to purchasers outside the City, regardless of where title passes, if the sale is not generated through solicitation or promotion by an employee of the taxpayer at the place where delivery is made. (Ord. 53-2004. Passed 12-06-04.)

1703.03 LEVY OF TAX.

The income tax at the rate of one (1.00%) percent shall be levied, collected, and paid with respect to the salaries, wages, commissions, and other compensation earned on or before December 31, 1993 and with respect to the net profits of businesses, professions, or other activities earned on or before December 31, 1993. The income tax at the rate of one and sixty-five hundredths of one percent (1.65%) percent shall be levied, collected, and paid with respect to the salaries, wages, commissions, and other compensation earned on or after January 1, 1994, and with respect to the net profits of businesses, professions, or other activities earned on or after January 1, 1994. The income tax at the rate of two percent (2.00%) shall be levied, collected, and paid with respect to the salaries, qualified wages, commissions, and other compensation earned on or after January 1, 2004, and with respect to the net profits of businesses, professions, or other activities earned on or after January 1, 2004. Where the fiscal year of the business, profession, or other activity differs from the calendar year, the tax at the rate of one (1.00%) percent shall be applied to that part of the net profits for the portion of the fiscal year occurring before January 1, 1994. The tax at the rate of one and sixty-five hundredths of one percent (1.65%) percent shall be applied to that portion of the fiscal year occurring on and after January 1, 1994. The tax at the rate of two percent (2.00%) shall be applied to that portion of the fiscal year occurring on and after January 1, 2004.

Where the fiscal year of a business, profession, or other activity is other than a calendar year, in computing the tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve (12) and multiplying the quotient by the number of months of the fiscal year between October 1, 1971, through December 31, 1993, multiplying the quotient by the number of months of the fiscal year between January 1, 1994 and December 31, 2003, and multiplying the quotient by the number of months of the fiscal year between January 1, 2004, and thereafter and applying the appropriate tax rate to each. (Ord. 53-2004. Passed 12-06-04.)

1703.04 RETURN AND PAYMENT OF TAX.

- (a) Any person whose only income is exempt from the tax imposed by this chapter must file an exemption certificate declaring the nature of the exemption. Each taxpayer who engages in business, or whose salaries, qualified wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year with the Department of Taxation on a form furnished by or obtainable from the Department, setting

forth the aggregate amount of salaries, qualified wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Administrator may require. Provided, however, that when the return is made for a fiscal or other period different from the calendar year, the return shall be made on or before the fifteenth (15) day of the fourth month after the close of the fiscal year or other period.

- (b) Commencing with taxable years beginning subsequent to December 31, 1982, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation, and subsequent to December 31, 2000 on the net profits from a resident's share in a Subchapter S corporation. However, if a taxpayer is engaged in two or more taxable unincorporated business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from unincorporated business activities. Commencing with taxable years beginning subsequent to December 31, 2000, the net loss from a resident's share of a Subchapter S corporation may not be used to offset salaries, qualified wages, commissions or other compensation or the net profits from an unincorporated business activity. However, if a resident taxpayer is a shareholder in two or more Subchapter S corporations included in the same return, the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from a resident's share in Subchapter S corporations. A husband and wife in any taxable year, may elect to file separate or joint returns.
- (c) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year. Nothing in Chapter 718.01 of the Ohio Revised Code requires the City to allow a net operating loss carry-forward.
- (d) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporation may not be taken into consideration in computing net profits or business allocation percentage formula of another.
- (e) The taxpayer making a return shall at the time of the filing thereof, pay to the City the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 1703.06 or where any portion of such

tax has been paid by the taxpayer pursuant to the provisions of Section 1703.07 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 1707.01 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.

- (f) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided there is no other tax liability and provided, further, that no amount less than one dollar (\$1.00) will be refunded or collected.
- (g) The Administrator shall have the authority to extend the time for filing of the annual return, provided the request of the taxpayer for extension is made in writing and received on or before the original due date of the return. If the extension is granted, the extended due date of the City's 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 Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon on or before the original due date. No penalty shall be assessed, in those cases in which the return is filed and the final tax paid within the period as extended.
- (h) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following such Saturday, Sunday or federal holiday without penalty.
- (i) A husband and wife may file either separate returns or a joint return for City purposes, even though one of the spouses has neither taxable income nor deductions included on the City's 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 aggregate taxable income and the liability with respect to the tax shall be joint and several.
- (j) The return shall be filed with the Tax Administrator or their authorized agent, on a form or forms furnished by or obtainable upon the request from the Tax Administrator; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the City'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.

(Ord. 53-2004. Passed 12-06-04.)

1703.05 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

Where 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 Section 1703.04(e) such amended return shall be on a form obtainable on request from the Department of Taxation. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment. Except for a claim resulting from and filed within three (3) months of the final determination of a taxpayer's Federal tax liability, no refund shall be allowed unless a written request be presented to the Income Tax Administrator within three (3) years after the date the tax was due or the return was filed, whichever is later. (Ord. 24-2002. Passed 6-17-02.)

1703.06 COLLECTION AT SOURCE.

- (a) Each employer within or doing business within the City shall deduct at the time of payment of such salaries, qualified wages, commissions or other compensation as defined in Section 1701.18 of this Taxation Code, the tax of Two Percent (2.00%) of the gross salaries, qualified wages, commissions or other compensation due by the said employer to the said employee and shall, on or before February 28th, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the year have been paid to the City in accordance with the payment schedule prescribed by subsection (c) hereof. 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. Every employer or officer of a corporation is deemed to be a trustee for this Municipality in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds.
- (b) In the case of employees who are non-resident professional athletes, the deduction and withholding of personal service compensation shall attach to the entire amount of qualified wages, salaries, and other compensation received for games that occur in the taxing community. In the case of a non-resident athlete not paid specifically for the game played in a taxing community, the following apportionment formula must be used: The wages, salaries and other compensation earned and subject to tax is the total income earned during the taxable year, including incentive payments, signing bonuses, reporting bonuses, incentive bonuses, roster bonuses and other extras, multiplied by a fraction, the numerator of which is the number of exhibition, regular season and post-season games the athlete played (or was available to play for his team, as an example, with substitutes), or was excused from playing because of injury or illness, in the taxing community during the taxable year, and the denominator of which is the total number of exhibition, regular season, and post-season games which the athlete was obligated to play under contract or otherwise during the taxable year,

including games in which the athlete was excused from playing because of injury or illness. Exhibition games are only those games played before a paying audience, and played against another professional team from the same professional league. In the case of non-resident salaried athletic team employees who are not professional athletes, deduction and withholding shall attach to qualified wages, salaries and other compensation earned for personal services performed in the City.

- (c) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:
 - (1) Semimonthly payments of the taxes deducted are to be made by an employer if:
 - (a) The total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more; or
 - (b) The amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be paid to the City within five banking days after the fifteenth and the last day of each month.
 - (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000.00) but more than one thousand one hundred ninety nine dollars (\$1,199.00) or if the taxes withheld during any month of the preceding quarter exceeded one hundred dollars (\$100.00). Commencing with taxable years subsequent to December 31, 1998 monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000.00) but more than three thousand five hundred ninety nine dollars (\$3,599.00), or if taxes withheld during any month for the preceding quarter exceeded three hundred dollars (\$300.00). Such payments shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this paragraph need not be paid until the last day of the month following such quarter.
 - (3) All employers not required to make semimonthly or monthly payments of taxes withheld under (1) and (2) of this subsection shall make quarterly payments no later than the fifteenth (15th) day of the month following the end of each quarter.
- (d) Each employer who maintains a place of business in the City and another branch within the metropolitan area of the City shall also withhold the tax

from the employees residing in the City but working at the employer's metropolitan area branch, even though the payroll records and place of payment are outside the City.

- (e) The employer shall make and file a Form 17 furnished by the Department of Taxation, showing the amount of tax deducted by said employer from the salaries, qualified wages, commissions or other compensation of any employee and paid by the employer to the City. The Form 17 shall also reconcile to prior remittances and returns filed by the employer for such tax year with respect to taxes withheld. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this Taxation Code is the salaries, qualified wages, commissions and other compensation returned by the employer.
- (f) Each employer on or before February 28, unless written request for thirty days extension is made to and granted by the Administrator following any calendar year in which such deductions have been made or should have been made by such employer shall file with the Administrator an information return (Worthington Withholding Statement of Wages Paid, and Worthington Income Tax Withheld), for each employee from whom income tax has been or should have been withheld, showing the name and address of the employee, the total amount of salaries, qualified wages, commissions and other compensation paid said employee during the year, and the amount of City income tax withheld from each employee.
- (g) Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.
- (h) 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 City when the services were performed within the City. 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.
- (i) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or

employee's liability for a prior failure of the corporation to file returns or pay tax due. (Ord. 53–2004. Passed 12-06-04.)

1703.07 DECLARATIONS.

Every person who anticipates any taxable income which is not subject to Section 1703.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 1703.01(c) inclusive and Section 1703.01(d) hereof 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; provided, however, if a person's income is wholly from qualified wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with Section 1703.06 hereof, such person need not file a declaration. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than one hundred dollars (\$100.00), no declaration or payment of estimated tax is required.

Such declaration shall be filed on or before April 15 of each year during the life of this Taxation Code, or on or before the fifteenth (15th) day of the fourth month the taxpayer becomes subject to the tax for the first time. Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.

Such a declaration shall be filed upon a form furnished by or obtainable from the Department of Taxation or an acceptable generic form, provided, however, credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Section 1703.06 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

Such declarations of estimated tax to be paid the City 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 seventh, tenth and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

On or before the fifteenth (15th) day of the fourth month of the year following that for which such 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 1703.04 hereof.

A declaration of estimated tax which is less than eighty percent (80%) of the tax shown on the final return shall not be considered filed in good faith. The difference shall

be subject to penalties and interest as provided for in Chapter 1709. (Ord. 53-2004. Passed 12-06-04.)

CHAPTER 1705

Powers and Duties of Administrator

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| 1705.01 Duties of the Administrator. | 1705.04 Collection of unpaid |
| 1705.02 Investigative powers of the | taxes. |
| Administrator. | 1705.05 Contract for enforcement. |
| 1705.03 Tax information confidential. | 1705.06 Separability. |

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII Sec. 3; CHTR. Sec. 2.07(8)

Council power to establish administrative departments – see CHTR. Sec. 2.07(2)

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

1705.01 DUTIES OF THE ADMINISTRATOR.

- (a) It shall be the duty of the Administrator to collect and receive the tax imposed by this Taxation Code in the manner prescribed by this Code, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of the payment.
- (b) The Administrator, or any duly authorized agent, is hereby charged with the administration and enforcement of the provisions of this Code and he is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Code, including provisions for the re-examination and correction of returns and payments. In any case where a taxpayer has failed to file a return or failed to pay the tax due on 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 appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. (Ord. 53-2004. Passed 12-06-04.)

1705.02 INVESTIGATIVE POWERS OF THE ADMINISTRATOR.

- (a) The Administrator, or any duly authorized agent, 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, or who the Administrator believes is subject to the provisions of this Taxation Code for the purposes of verifying the accuracy of any return made, or, if no return was made, to

ascertain the tax due under this Code, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee at the reasonable time and place designated, the opportunity for making such examinations and investigations as are hereby authorized.

- (b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear at the office of the Tax Administrator and may examine such 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 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) No person upon written order shall fail to appear before the Administrator or his authorized agent on the date, time and place designated in the written order. (Ord. 53-2004. Passed 12-06-04.)

1705.03 TAX INFORMATION CONFIDENTIAL.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Taxation Code shall be confidential, except for official purposes, or except in accordance with proper judicial order. The Administrator may furnish the Internal Revenue Service, Treasury Department of the United States, the Tax Commissioner of Ohio and the duly authorized income tax administrator of any other city or state with copies of the returns filed. The Administrator is also authorized to enter into agreements for the exchange of any information with any of the foregoing Federal, state or city officials. Any person divulging such information, except as herein before authorized, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, 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 guilty of an offense punishable by immediate dismissal.

(Ord. 53-2004. Passed 12-06-04.)

1705.04 COLLECTION OF UNPAID TAXES.

- (a) All taxes imposed by this Taxation Code shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.
- (b) The Administrator is authorized, in addition to his other duties, to institute civil law suits to collect delinquent taxes due and owing the City by virtue

of the provisions of this Code. The Administrator or his delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State Statute of Limitations. (Ord. 37-99. Passed 6-28-99.)

- (c) 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.
- (d) 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.
 - i. If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in section D above shall be calculated using the tax rate in effect.
 - ii. Nothing in this section permits any credit carry-forward.
- (e) 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.
(Ord. 53-2004. Passed 12-06-04.)

1705.05 CONTRACT FOR ENFORCEMENT.

Nothing in this Part Seventeen - Taxation Code shall be deemed to prevent the exercise of any of the powers and duties imposed on any officer or division of the City by any person or agency, including another municipal corporation, with which the City may contract for the administration and/or enforcement of the provisions of this Code, it being the intent hereof that all enforcement powers granted to any officer or division of the City may be exercised by such contracting party. (Ord. 24-2002. Passed 6-17-02.)

1705.06 SEPARABILITY.

If any sentence, clause, section or part of this Part Seventeen - Taxation Code, 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 Code and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Code. It is hereby declared to be the intention of Council that this Taxation Code would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 24-2002. Passed 6-17-02.)

CHAPTER 1706

Board of Tax Appeals

1706.01 Board of Tax Appeals.

CROSS REFERENCES

Municipal income taxes - see Ohio R.C. Ch. 718.11

1706.01 Board of Tax Appeals

- (a) There is hereby established a Board of Tax Appeals, consisting of three (3) members and one (1) alternate, who shall be resident individuals appointed by Worthington City Council. The alternate member will replace a member who disqualifies himself or herself based upon a conflict of interest or is unable to attend. Appointments to the Board shall be for four-year terms, provided that the term of two of the members appointed to the first Board shall be for two years. All members shall possess general tax knowledge or be sufficiently versed on municipal tax related issues. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its transactions. Any hearing of the Board may be conducted privately and the provisions of Section 1705.03 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 of Tax Appeals.
- (b) Any person dissatisfied with any ruling or decision of the Tax Administrator, which is made under the authority conferred by this chapter, may appeal to the Board within 30 days from the announcement of such ruling or decision by the Tax Administrator and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and such hearing shall be scheduled with 45 days from the date of appeal. The Board's ruling must be made within 90 days from the date of the hearing and shall send notice of its final decision by ordinary mail to all 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. The concurrence of two members is required to reverse or modify any ruling or decision of the Tax Administrator.
(Ord. 53-2004. Passed 12-06-04.)

CHAPTER 1707
Credits and Exemptions; City Contracts; Registration

1707.01 Credits For Tax Paid to Another Municipality **1707.03 Contract provisions.**
1707.02 Exemptions. **1707.04 Registration of Tenants**

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art XVIII Sec. 3; CHTR. Sec. 2.07(8)

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

1707.01 CREDITS FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every individual taxpayer who resides in the City but who received net profits, salaries, qualified wages, commissions or other compensation for work done or services performed or rendered outside the City, if it be made to appear that such taxpayer has paid a municipal income tax or excise tax based on income, on such net profits, salaries, qualified wages, commissions or compensation in another municipality, shall be allowed a credit for the amount so paid by such taxpayer or in such taxpayer's behalf in such other municipality, this credit to be applied only to the extent of the tax assessed by this Taxation Code, by reason of such net profits, salaries, qualified wages, commissions or compensation earned in such other municipality where such tax is paid.
(Ord. 53-2004. Passed 12-06-04.)

1707.02 EXEMPTIONS.

The provisions of this Taxation Code shall not be construed to tax the military pay or allowances of members of the armed forces of the United States, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

The tax provided for herein shall not be levied on the personal earnings of any natural person under eighteen years of age.

Mentally retarded and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops shall be exempt from the levy of the tax provided herein. (Ord. 24-2002. Passed 6-17-02.)

1707.03 CONTRACT PROVISIONS.

No contract on behalf of the City of Worthington for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:
"Said _____ hereby further agrees to withhold all City of Worthington income taxes due or payable under the provisions of Part Seventeen Taxation Code of the Codified Ordinances of the City of Worthington, Ohio, for qualified wages, salaries and commission paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City of Worthington income taxes due under said Code for services performed under this contract."
(Ord. 53-2004. Passed 12-06-04.)

1707.04 REGISTRATION OF TENANTS, CONTRACTORS AND EMPLOYEES.

Each owner, or the duly designated agent thereof, of one (1) or more units of real property located within the City and which are rented or available for rent as of July 1, 2002, and thereafter, shall submit to the Tax Administrator, or the designee thereof, on or before September 30 of each year a list of tenants presently occupying those rental units and those units vacant. For the purposes of this section, Rented Units includes any unit of real property which is subject to a rental agreement, whether oral or written, for residential, commercial or industrial purposes.

All employers, contractors or subcontractors who do work in the City shall register with the Tax Administrator. The Tax Administrator may request a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the City of Worthington income tax. (Ord. 24-2002. Passed 6-17-02.)

CHAPTER 1709
Penalties and Interest

1709.01 Penalties and interest.

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII Sec. 3; CHTR. Sec. 2.07(8)

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R. C. Ch. 718

1709.01 PENALTIES AND INTEREST.

- (a) All taxes imposed by this Taxation Code, which remain unpaid after they become due, shall result in the assessment of a penalty of ten percent (10%) of the amount of unpaid tax. 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 thereon within the time prescribed by the Administrator; 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.
- (b) In the event that a taxpayer has a duty as imposed by this Taxation Code to file a return and does not do so, a penalty of twenty-five dollars (\$25.00) per month shall be assessed the day after the due date of the filing and for each month thereafter not to exceed one hundred fifty dollars (\$150.00). This penalty shall not apply to taxpayers required to file an individual separate or individual joint return.
- (c) In the event that the taxpayer has properly requested an extension of filing time, no penalty shall be assessed in those cases in which the return is filed and the final tax, if any, is paid within the period as extended.
- (d) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of six percent (6%) per year or fraction thereof. (Ord. 24-2002. Passed 6-17-02.)

CHAPTER 1711

Allocation of Funds

1711.01 Allocation of funds.

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII Sec. 3; CHTR. Sec. 2.07(8)

Council authority to adopt budget - see CHTR. Sec. 2.07(3)

Budget estimates and statements - see CHTR. Sec. 4.02

Municipal income taxes - see Ohio R.C. Ch. 718

1711.01 ALLOCATION OF FUNDS.

The funds collected under the provisions of this Taxation Code shall be applied for the following purpose and in the following order, to wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this Code and enforcing the provisions hereof;
- (b) Such part thereof as Council may appropriate to the General Fund for the purpose of paying the cost of general governmental operations;
- (c) Such part thereof as Council may appropriate for the purpose of paying the cost of maintenance of, and the purchase of new equipment, motorized or other;
- (d) Such part thereof as Council may appropriate for the purpose of paying the cost of the acquisition, construction, repair and/or maintenance of streets and/or other permanent improvements; and
- (e) In any event at least twenty percent (20.0%) of the proceeds collected on and after January 1, 2004, from the City Income Tax under the provisions of this Code shall be deposited in the Capital Improvements Fund for the purpose of acquiring, constructing or maintaining any capital improvement or for the purpose of paying the debt service of any capital improvements.

(Ord. 63-2003. Passed 11-17-03.)

CHAPTER 1713

Violations and Penalty

1713.01 Violations; general penalty. 1713.02 Penalty and interest on unpaid withheld taxes.

1713.03 Income Tax Regulation.

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42

Returns and payment of tax - see TAX. 1703.04, 1703.05

Collection at source - see TAX. 1703.06

Collection of unpaid taxes - see TAX. 1705.04

1713.01 VIOLATIONS; GENERAL PENALTY.

- (a) No person subject to the provisions of this chapter shall do any of the following:
 - (1) Fail, neglect, or refuse to make and file any return or declaration.
 - (2) Fail, neglect, or refuse to pay the tax, interest, or penalty imposed by this chapter.
 - (3) Being a corporation or business association fail, neglect, or refuse to permit the Administrator or his duly authorized agent or employee the opportunity to examine their books, records, and papers by failing to produce such information at the reasonable time and place designated pursuant to Section 1705.02 of this Code.
 - (4) Knowingly make and file an incomplete, false, or fraudulent return.
- (b) No employer shall fail, neglect, or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter.
- (c) The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse either one from making a return or declaration or paying the tax levied under this chapter.
- (d) Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and upon conviction thereof, shall be fined in a sum not to exceed two hundred fifty dollars (\$250.00) or imprisoned for a period not to exceed thirty (30) days or both for first offense, and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months for a second or subsequent conviction. (Ord. 24-2002. Passed 6-17-02.)

1713.02 PENALTY AND INTEREST ON UNPAID WITHHELD TAXES.

- (a) All taxes deducted by an employer or required to be deducted and withheld by an employer pursuant to Section 1703.06 remaining unpaid after they become due shall result in the assessment of a penalty of fifty percent (50%) of the amount of the unpaid tax.
- (b) All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due pursuant to

Section 1703.06 (c)(1), (c)(2) and (c)(3) shall bear interest on the amount of unpaid tax at the rate of six percent (6%) per year or fraction thereof.
(Ord. 24-2002. Passed 6-17-02.)

1713.03 INCOME TAX REGULATION

Where compensation is paid or received in property or the use thereof, its fair market value shall be subject to the tax and/or to withholding (deduction of tax at source), and shall be included in earnings at fair market value to the same extent and at the same time that all such items are or may be taxable under the Federal Internal Revenue Code as it exists now or is hereinafter amended. The value finally accepted for the purposes of Federal Internal Revenue Code will be accepted by the Administrator and shall be used by the taxpayer. This provision only provides for the valuation of income paid or received in property or the use thereof and shall not be interpreted to adopt or refer to any other provision of the Federal Internal Revenue Code. For purposes of this regulation the phrase "income paid or received in property or use thereof" shall not include any deferred income currently taxed by the City of Worthington Tax Code. (Ord. 24-2002. Passed 6-17-02.)