

ORDINANCE NO. 2642

**AN ORDINANCE AMENDING SECTION 151.22 OF THE CODIFIED ORDINANCES MUNICIPAL INCOME TAX CREDIT FOR RESIDENT TAXPAYERS AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Chardon instituted a municipal income tax in 1970; and

**WHEREAS**, the Municipality formerly contracted with CCA through 2010 to administer the municipal income tax; and

**WHEREAS**, the municipality executed a contract with the Regional Income Tax Agency (RITA) to administer the municipal income tax effective January 1, 2011; and

**WHEREAS**, RITA's legal counsel has reviewed the municipal income tax ordinance and recommends a revision to clarify the meaning and intent of Section 151.22, which grants Chardon Municipal income tax credits to resident taxpayers in an amount not to exceed 50% of the tax assessed by the City of Chardon.

**NOW, THEREFORE, BE IT ORDAINED BY** the Council of the City of Chardon, State of Ohio, that:

**SECTION 1.** Section 151.22 CREDIT FOR RESIDENT TAXPAYERS of the Codified Ordinances is hereby amended in its entirety to read as follows:

**151.22 CREDIT FOR RESIDENT TAXPAYERS**

(a) When a resident of the City is subject to a municipal income tax in another municipality on the same income taxable under this chapter, the resident taxpayer may claim a credit of 50% of the amount of income tax paid to the other municipality, but such credit shall not exceed 50% of the tax assessed by this chapter. For the purpose of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity. The credit shall be effective on January 1, 2005

(b) In the event a City of Chardon resident is entitled to credit for taxes paid to another municipality, the resident is required to file a return on a form in such manner as the Administrator designated by the City may prescribe.

Assignment of any claim for refund to which a Chardon resident taxpayer may be entitled from another municipality shall be tentatively accepted as payment of that portion of the City of Chardon income tax represented by such assignment. Provided, however, that if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

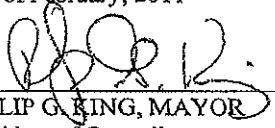
In the event a resident taxpayer fails, neglects or refuses to file a municipal income tax return as required hereunder, on a form as prescribed by the Administrator, the resident taxpayer shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

**SECTION 2.** It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

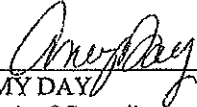
**SECTION 3.** This ordinance constitutes an emergency measure necessary for the immediate preservation of the public peace, health and welfare, and for the further reason

that this ordinance must go into effect at the earliest possible time to preserve the resident tax credits that are claimed for tax year 2010, and for this reason this ordinance shall be effective upon its passage.

**PASSED AND ADOPTED** this 10<sup>th</sup> day of February, 2011

  
\_\_\_\_\_  
PHILIP G. KING, MAYOR  
President of Council

Attest:

  
\_\_\_\_\_  
AMY DAY  
Clerk of Council

ord amend 151.22

TITLE SEVEN - Taxation  
Chap. 151. Income Tax.

CHAPTER 151  
Income Tax

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### CROSS REFERENCES

Limitation on rate of taxation - see CHTR. § 8.04  
Power to pass income tax law - see Ohio Const., Art. XII, Sec. 8  
Apportionment - see Ohio Const., Art. XII, Sec. 9  
Municipal power to levy - see Ohio Const., Art. XVIII, Sec. 3  
Payroll deductions - see R.C. § 9.42  
Prohibitions - see R.C. § 718. 01  
Uniform rates - see R.C. § 718. 01  
Election - see R.C. § 718. 01  
Municipal limitation - see R.C. § 718. 06  
Limitation of act - see R.C. § 718.06

### 151.01 PURPOSE.

There is hereby levied a municipal income tax on salaries and wages (hereinafter "qualified wages"), commissions, adjusted federal taxable income and other compensation, net profits and intangible income as hereinafter provided to provide funds for the purposes of general municipal operations; procurement of fixed assets, permanent improvements and equipment, and the maintenance thereof; extension and enlargement of municipal services and facilities; payment of debt charges; elimination of municipal deficits; and all other lawful municipal purposes. Nothing in this chapter shall be construed as limiting or removing the ability of the Municipality to administer, audit and enforce the provisions of its municipal income tax. (Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

### 151.02 DEFINITIONS.

The terms, phrases, words and their derivatives used in this chapter shall have the following meanings:

(a) "Adjusted federal taxable income".

- (1) If the taxpayer is a C corporation: the 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 of intangible income deducted under division (a)(1)A. of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in § 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 §§ 1221 or 1231 of the Internal Revenue Code.
  - D. 1. Except as provided in division D.2. below, 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 § s 1221 or 1231 of the Internal Revenue Code;

2. Subsection D.1. does not apply to the extent the income or gain is income or gain described in § s 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.

For purposes of determining if business is conducted within the city, "any direct and/or indirect ownership of an interest in an association, pass-through entity or unincorporated business entity that conducts business within the City" is considered included.

- (2) If the taxpayer is not a C corporation and is not an individual: the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
  - A. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
  - B. Amounts paid or accrued to or for 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 herein 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.

- (b) "Administrator" or "Tax Administrator" means the following:
  - (1) The Finance Director of the Municipality who is hereby designated to act in such capacity for all purposes of this chapter; and
  - (2) The Central Collection Agency, any successor in interest, or other entity organized to perform functions similar to those performed by the Central Collection Agency. (Ord. 1169. Passed 6-9-88.)
- (c) "Administrative Rulings" mean the rulings issued by the Tax Administrator, upon the request of a taxpayer or employer, interpreting this chapter and the Rules and Regulations. Administrative Rulings shall be binding and effective upon issuance as to the taxpayer or employer requesting the ruling.
- (d) "Association" means any partnership, limited partnership, limited liability company, limited liability partnership, Subchapter S corporation ("S corporation") as defined in the Internal Revenue Code, or any other form of unincorporated business or enterprise taxed on a pass-through basis under the Internal Revenue Code. The terms "association," "pass-through entity," and "unincorporated business entity" are synonymous for purposes of this Chapter and the Rules and Regulations.
- (e) "Board of Review" means the Board created by and constituted in § 151.37.
- (f) "Business" means an enterprise, activity, profession or undertaking of any nature either 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 or leasing of property, real, personal or mixed; excluding however, all nonprofit corporations which are exempt from the payment of Federal Income Tax. For purposes of determining "business is conducted within the city," any direct and/or indirect ownership of an interest in an association, pass-through entity or unincorporated business entity that conducts business within the City is considered included.

- (g) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory or foreign country or dependency, or any unincorporated entity treated as a corporation for federal income tax purposes.
- (h) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (i) "Employer" means an individual, partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons and pays them wages, salary, commission, or other compensation.
- (j) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (k) "Form 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (l) "Gross receipts" means the total income from any source whatever.
- (m) "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 R.C. Chapter 5701; patents, copyrights, trademarks and trade names; investments in real estate investment trusts and 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.
- (n) "Internal Revenue Code" or "IRC" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (o) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, but subject to adjustment in accordance with the regulations and rules adopted by the Administrator and without deduction of taxes imposed by this chapter, Federal, state and other taxes based on income, and in the case of an association, without deduction of salaries paid to partners and other owners.
- (p) "Net profit from a business or profession" means, for a taxpayer who is an individual, the individual's profit other than exempt income described in § 151.08 required to be reported on schedule C, schedule E, or schedule F.
- (q) "Nonresident" means an individual domiciled outside the Municipality.
- (r) "Nonresident Owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the city; or a corporation that has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the City.

- (s) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (t) "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 qualifying wages of the individual.
- (u) "Owner" means an individual, partner, member, or any other person having an ownership interest in an association, pass-through entity, or unincorporated business entity.
- (v) "Person" means an individual, firm, partnership of any kind, fiduciary, trust, estate, association, business trust, corporation, limited liability company, governmental or any other entity or other payer. With respect to provisions of this Chapter that impose or prescribe a penalty, "person" means the owners of an association, pass-through entity and unincorporated business entity, and the officers of a corporation.
- (w) "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 to conduct business activity individually or through one or more employees regularly in attendance.
- (x) "Qualifying wages" means wages, as defined in § 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
  - (1) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in § 125 of the Internal Revenue Code.
  - (2) Add the following amounts:
    - A. Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;
    - B. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax. The amount to be added hereunder applies only to those amounts constituting ordinary income.
    - C. Any amount not included in wages if the amount is an amount described in § 401(k) or 457 of the Internal Revenue Code. The amount to be added hereunder applies only to employee contributions and employee deferrals.
    - D. Any amount that is supplemental unemployment compensation benefits described in § 3402(o)(2) of the Internal Revenue Code and not included in wages.
  - (3) Deduct any amount included in wages attributable to a nonqualified deferred compensation plan or program described in § 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and has, by resolution or ordinance, been exempted from taxation by the municipal corporation.
  - (4) Deduct any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance, exempted the amount from withholding and tax.
- (y) "Resident" means an individual domiciled in the Municipality.
- (z) "Resident owner" means an individual domiciled in the City who has an interest in an association, pass-through entity or unincorporated business entity.

- (aa) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (bb) "Rules and Regulations" mean the Rules and Regulations promulgated by the Tax Administrator and approved by the Board of Review.
- (cc) "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.
- (dd) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (ee) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (ff) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (gg) "Taxable income" means wages, salary and other compensation paid by an employer to employees before any deduction, net profits of an individual, adjusted federal taxable income and intangible income, adjusted in accordance with the provisions of this chapter.
- (hh) "Taxable year" means the corresponding tax reporting period (for example, calendar year or fiscal year) as prescribed for the taxpayer under the Internal Revenue Code.
- (ii) "Taxpayer" means a person subject to the tax on income levied by the City of Chardon. "Taxpayer" does not include any "pass-through entity" as defined in § 151.051(a)(2) but "taxpayer" includes any other person who owns or holds an equity interest in the "pass-through entity."  
(Ord. 512. Passed 12-15-69; Am. Ord. 2187. Passed 2-12-04; Am. Ord. 2345. Passed 6-8-06.)

### 151.03 IMPOSITION.

An annual tax for the purposes specified in § 151.01 hereof shall be imposed on and after January 1, 1970, at the rate of 1% per annum; provided that on and after January 1, 2005, the total tax shall be 2% per annum. The tax shall be imposed on all taxable income as follows:

- (a) On all qualifying wages, commissions, lottery winnings, gambling winnings and other compensation earned and/or received by residents of the Municipality.
- (b) On all qualifying wages, commissions, lottery winnings, gambling winnings and other compensation earned and/or received by non-residents of the Municipality for work done or services performed or rendered within the Municipality or attributable to the Municipality; or for an employer with an office or place of business within the Municipality; and other compensation, lottery winnings and gambling winnings when the source of entitlement or activity conducted is located or occurs within the Municipality.
- (c) Lottery and gambling losses are deductible against lottery and gambling winnings. The Administrator shall provide rules and regulations to determine such losses.
- (d)
  - (1) On the portion attributable to the Municipality on the net profits earned and/or received of all resident unincorporated business entities or professions or other activities conducted in the Municipality.
  - (2) On the portion of the distributive share of the net profits earned and/or received of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.



- (3) On the portion of the distributive share of the net profits earned and/or received of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.
  - (4) On the portion attributable to the Municipality of the net profits earned and/or received of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Municipality whether or not such unincorporated business entity has an office or place of business in the Municipality.
  - (5) On the portion attributable to the Municipality of the net profits earned or received of all C corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality whether or not such corporations have an office or place of business in the Municipality.
- (Ord. 512. Passed 12-15-69; Am. Ord. 2187. Passed 2-12-04; Am. Ord. 2206. Passed 5-13-04; Am. Ord. 2345. Passed 6-8-06.)

#### 151.04 EFFECTIVE PERIOD.

Such tax shall be levied, imposed, collected and paid with respect to the qualifying wages, commissions, winnings and other compensation, and with respect to the net profits of businesses, professions or other activities earned and/or received on and after January 1, 1970.  
(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.05 DETERMINATION OF APPORTIONMENT OF TAX.

(a) Method of determination. Except as provided in subsection (d) hereof, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for the purpose 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 Municipality during the taxable period to the average original cost of all 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) Wages, salaries and other compensation paid during the taxable period to persons employed by a business or profession for services performed in the Municipality to wages, salaries and other compensation paid during the same period to persons employed by a business or profession, wherever their services are performed, excluding compensation that is not taxable by the Municipality under § 151.08(h) hereof.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing apportionment formula does not produce an equitable result, another basis may be substituted under uniform regulations which produces an equitable result.

(b) Sales Made in the Municipality. As used in subsection (a) hereof, "sales made in the Municipality" means:

- (1) All sales of tangible personal property delivered within the Municipality regardless of where title passes if shipped or delivered from a stock of goods within the Municipality.
- (2) All sales of tangible personal property delivered within the Municipality regardless of where title passes even though transported from a point outside the Municipality if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion.
- (3) All sales of tangible personal property shipped from a place within the Municipality to purchasers outside of the Municipality 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 of delivery.

(c) Rental Income. Except as otherwise provided in § 151.06, rental income from rental activity not constituting a business or profession shall be subject to tax only by the municipality in which the property generating the net profit is located.

(d) Residents exempt. This section shall not apply to individuals who are residents of the Municipality and, except as otherwise provided in this Chapter, the Municipality may impose a tax on all income earned and/or received by residents of the Municipality to the extent allowed by Ohio law and the Ohio and United States Constitutions.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.051 LIMITED LIABILITY COMPANIES, CREDITS FOR INCOME FROM PASS-THROUGH ENTITIES.

(a) As used in this section:

- (1) "Limited liability company" means a limited liability company formed under R.C. Chapter 1705 or under the laws of another state.
- (2) "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.
- (3) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (4) "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.
- (5) "Owner's proportionate share," with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(b) On and after January 1, 2003, any resident owner who receives income from a pass-through entity shall be entitled to a credit for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the Municipality. The amount of the credit shall equal the lesser of the following amounts, subject to division (c) of this section:

- (1) The owner's proportionate share of the amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state;
- (2) The owner's proportionate share of the amount of tax that would be imposed on the pass-through entity by the municipal corporation in which the taxpayer is domiciled if the pass-through entity conducted business in the municipal corporation.

(c) The amount of credit allowed by division (b) of this section shall be multiplied by the percentage, less than 100%, of the amount of income taxes paid on compensation by the individual resident taxpayer to another municipal corporation.

(d) A single member limited liability company that is a disregarded entity for federal tax purposes may elect to be a separate taxpayer from its single member if all of the following conditions are met:

- (1) The limited liability company's single member is also a limited liability company.
  - (2) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004;
  - (3) The limited liability company and its single member each make an election to be treated as a separate taxpayer under division (d) of this section;
  - (4) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
  - (5) The Municipality consents to the election.
  - (6) The election is made in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003.
  - (7) For purposes of division (d) of this section, the Municipality is the primary place of business of a limited liability company if, for the limited liability company's taxable year, its income tax liability is greater in the Municipality than in any other municipal corporation in Ohio, and its tax liability to the Municipality for the taxable year is at least four hundred thousand dollars (\$400,000).
- (Ord. 2345. Passed 6-8-06.)

#### 151.06 RENTAL INCOME; RENTAL LIST REQUIRED.

(a) Rental income received by an individual resident taxpayer shall be included in the computation of net profits from business activities under Section 151.03(d), only if and to the extent that the rental ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a resident taxpayer individually or through agents or other representatives, constitute a business activity of the individual resident taxpayer in whole or in part.

(b) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax.

(c) The owner of commercial property shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred twenty-five dollars (\$125.00) per month.

(d) The owner of farm property shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.

(e) A person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.

(f) It shall be mandatory for every taxpayer subject to Sections 151.05(c) and 151.06, personally or through a management agent, to submit a list to the Administrator of names and addresses of all tenants. The required list shall be prepared and submitted on or before January 31, 2009 and at such other times as the Administrator may prescribe.

(g) Beginning on February 1, 2009 and thereafter, and subject to subsection (i) below, within thirty days after a new tenant occupies residential rental property of any kind within the City, the property owner of rental or leased residential property shall file with the Administrator a report showing the name, social security number and address of each tenant who occupies a residential premises within the corporate limits of the City.

(h) Beginning on February 1, 2009 and thereafter, within thirty days after a tenant vacates residential rental property of any kind within the City, the property owner of rental or leased residential property shall file with the Administrator a report identifying a vacating tenant and stating the date of vacating from the rental or leased residential property.

(i) Any tenant whose social security number is required to be reported by the landlord to the Administrator, pursuant to the subsections above, may report such social security number directly to the Administrator when the tenant desires, for any reason whatsoever, not to reveal his or her social security number to the landlord. The tenant shall provide the social security number or other required information within the time required above.

(j) The owner of rental or leased residential property whose tenant and/or lessee elects the procedure set forth in subsection (i) is exempted from the requirement of reporting the tenant's social security number to the City. (Ord. 2486. Passed 9-11-08.)

#### 151.07 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1970, allocable to the Municipality may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.  
(Ord. 512. Passed 12-15-69; Am. Ord. 2365. Passed 10-12-06.)

**151.08 EXEMPTIONS; INCOME SOURCES NOT TAXED.**

The tax provided for herein shall not be levied on the following:

- (a) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio national guard;
- (b) 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;
- (c) Except as otherwise provided in this Chapter, intangible income;
- (d) Compensation paid under R.C. § 3501.28 or § 3501.36 to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subjected to taxation by the Municipality. The Municipality shall not require the payer of such compensation to withhold any tax from that compensation;
- (e) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under R.C. Chapter 306, for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality;
- (f) The income of a public utility, when that public utility is subject to the tax levied under R.C. § 5727.24 or § 5727.30 but subject to R.C. Chapter 5745, the tax provided for herein shall be levied on the following:
  - (1) Beginning January 1, 2002, the income of an electric company or combined company;
  - (2) Beginning January 1, 2004, the income of a telephone company.As used in this division, "combined company," "electric company," and "telephone company" have the same meanings as in R.C. § 5727.01.
- (g) On and after January 1, 2003, items excluded from federal gross income pursuant to § 107 of the Internal Revenue Code;
- (h) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under R.C. § 718.011;
- (i) Employee compensation that is not "qualifying wages" as defined herein.
- (j) Compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option; or
- (k) Compensation attributable to a nonqualified deferred compensation plan or program described in § 3121(v)(2)(C) of the Internal Revenue Code.
- (l) Unemployment insurance benefits, Social Security benefits, welfare benefits, retirement pensions or similar payments, disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
- (m) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered, from whatever source derived.
- (n) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona-fide charitable, religious or educational organizations and associations.
- (o) Alimony received.
- (p) Personal earnings of any natural person under 18 years of age.

- (q) Compensation for personal injuries or for damage to property by way of insurance or otherwise.
- (r) Gains from involuntary conversions, cancellation of indebtedness to the extent exempt from Federal income tax; interest on Federal obligations, items of income already taxed by the State from which the Municipality is specifically prohibited from taxing and income of a decedent's estate during the period of administration, except such income earned from the operation of a business.
- (s) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce; or by the Ohio Constitution or any act of the General Assembly limiting the power of the Municipality to impose income taxes.
- (t) If an individual's taxable income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, and against which a like deduction has not been allowed by the Municipality, the Municipality shall deduct from the taxpayer's taxable income an amount equal to the deduction shown on such form allowable against such income, to the extent not otherwise so allowed as a deduction by the Municipality.
- (u) In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, the Municipality may not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the Municipality, an amount other than the net profit required to be reported by the taxpayer on schedule C or schedule F from such sole proprietorship for the taxable year.
- (v) In the case of a taxpayer who has a net profit from rental activity required to be reported on schedule E, the Municipality may not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the Municipality, an amount other than the net profit from rental activities required to be reported by the taxpayer on schedule E for the taxable year.
- (w) Compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve or fewer days in a calendar year unless one of the following applies:
  - (1) The individual is an employee of another person; the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to that individual for services performed on those days; and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.
  - (2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter.
- (x) An S corporation shareholder's distributive share of net profits of the S corporation to the extent such distributive shares are allocated or apportioned to sources outside the State of Ohio other than any portion of the distributive shares of net profits that represents wages as defined in § 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in § 1402(a) of the Internal Revenue Service Code:

- (y) Only the income items listed in this § 151.08 are not subject to the tax imposed by this chapter. All other compensation, net profits and other income earned and/or received by a taxpayer shall be subject to the tax imposed by this chapter unless prohibited by State or federal law.
- (z) Earnings of a Resident Full-time Student on the First Three Thousand Dollars (\$3,000.00) of Income per Year. Earnings of a resident full-time student shall be taxed only on the amount in excess of the three thousand dollars (\$3,000.00) per year. A "resident full-time student" is defined as a person 18 years of age or older who is attending an accredited high school, college, trade school or university, with classes of at least 12 credit hours per quarter, and resides in the City.  
(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06; Am. Ord. 2460. Passed 4-10-08.)

151.09 WHEN RETURN REQUIRED TO BE MADE.

- (a) Calendar year taxpayer. Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 30 of each year, on or before April 15, 2006 and on or before April 15 of each year thereafter.





(b) Fiscal year taxpayer. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

(Ord. 962. Passed 11-1-84; Am. Ord. 2345. Passed 6-8-06.)

#### 151.10 FORM AND CONTENT OF RETURN; GENERIC TAX FORMS.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator or on a generic form, setting forth:

- (a) The aggregate amounts of qualifying wages, commissions, lottery winnings, gambling winnings and other compensation earned and/or received and gross income from business, professional other enterprise or activity earned and/or received, less allowable expenses incurred in the acquisition of such gross income earned during the preceding taxable year and subject to the Municipal income tax;
- (b) The amount of the tax imposed by this chapter on such qualifying wages, net profits and all other taxable income; and
- (c) Such other pertinent statements, schedules, information, copies of federal or state income tax returns or other information as the Administrator may require.
- (d) A taxpayer may file an income tax return, report, or other documents, and the Municipality 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 in the Municipality's prescribed return, report, or document, and if the taxpayer or return preparer filing the generic form otherwise complies with rules or ordinances of the Municipality governing the filing of returns, reports or documents.

As used in this subsection:

- (1) "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 Municipality for the reporting of the Municipality's tax on income.
- (2) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (e) A taxpayer required to file a return to report the net profit from a business or profession may file the Municipality's income tax return or estimated municipal income return, and may make payment of amounts shown to be due on such returns, by using the Ohio business gateway. A taxpayer who elects to file by using the Ohio business gateway shall comply with § 151.101 and is subject to filing deadlines contained therein.

(Ord. 512. Passed 12-15-69; Am. Ord. 2187. Passed 2-12-04; Am. Ord. 2345. Passed 6-8-06.)

#### 151.101 OHIO BUSINESS GATEWAY; TAX REPORTING ALLOWED VIA GATEWAY; EXTENSIONS VIA GATEWAY.

(a) As used in this section, "Ohio business gateway" means the online computer network system, initially created by the department of administrative services under R.C. § 125.30, that allows private businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(b) Notwithstanding § 151.10 of the Codified Ordinances on and after January 1, 2005, any taxpayer that is subject to the Municipal tax on the net profit from a business or profession and has received an extension to file the federal income tax return shall not be required to notify the City of the federal extension and shall not be required to file the Municipal income tax return until the last day of the month to which the due date for filing the federal return has been extended, provided that, on or before the date for filing the Municipal income tax return, the person notifies the Administrator of the federal extension through the Ohio business gateway. An extension of time to file is not an extension of the time to pay any tax due.

(c) For taxable years beginning on or after January 1, 2005, a taxpayer subject to the Municipal tax on the net profit from a business or profession may file the Municipal income tax return or estimated Municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio business gateway.

(d) Any employer may report the amount of municipal income tax withheld from qualifying wages paid on or after January 1, 2005, and may make remittance of such amounts, by using the Ohio business gateway.

(e) Nothing in this section affects the due dates for filing employer withholding tax returns.

(f) The use of the Ohio business gateway by the Municipality, taxpayers, or other persons pursuant to this section does not affect the legal rights of the Municipality or taxpayers as otherwise permitted by law. This state shall not be a party to the administration of the Municipal income tax or to an appeal of a Municipal income tax matter, except as otherwise specifically provided by law.  
(Ord. 2345. Passed 6-8-06)

#### 151.11 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing the annual return upon the request of the taxpayer. A taxpayer that requests an extension for filing a federal income tax return may request an extension for the filing of the Municipal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for federal filing extension with the Administrator. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed herein. The Administrator shall grant the requests for extension for a period not less than 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 deny the taxpayer's request for extension if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the Municipality delinquent income tax or any penalty, interest, assessment, or other charge for the 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. An extension granted by the Administrator or through the Ohio Business Gateway for filing the Municipal income tax return does not extend the last date for paying the tax without interest or penalty unless the Administrator grants in writing an extension of that date.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

### 151.12 CONSOLIDATED RETURNS.

(a) Filing consolidated returns may be permitted or required in accordance with the rules and regulations prescribed by the Administrator. The Administrator shall accept for filing, after January 1, 2003, a consolidated income tax return from any affiliated group of corporations subject to the Municipal income tax if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to R.C. § 1501 I.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Municipality, which is only a portion of its total business, the Administrator shall require such additional information as he or she deems necessary to ascertain whether net profits are properly allocated to the Municipality. If the Administrator finds that net profits are not properly allocated by the Municipality 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, the Administrator shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the Municipality. (Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

### 151.13 AMENDED RETURNS.

(a) Where necessary an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in § s 151.18, 151.19, 151.20, 151.21, 151.22 and 151.23 hereof. Such amended return shall be on a form obtainable on request from the Administrator or on such other form as is permitted by law. A taxpayer may not change the method of accounting, filing status or method of apportionment of net profits after the due date for filing the original return.

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

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

### 151.14 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of § 151.15, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of § 151.16(a) or whether an income tax has been paid to another municipality, credit for the amount so paid in accordance with § 151.21 or 151.22, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(b) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability

hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.15 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer located or doing business within the Municipality shall deduct at the time of the payment of such qualifying wage, commission or other compensation, the amount of tax imposed by § 151.03 on the gross qualifying wages, commissions or other compensation due by the employer to the employee and shall, on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsections (c) to (e) hereof. Returns shall be on a form prescribed by or acceptable to the Administrator, and shall be subject to the rules and regulations prescribed therefor by the Administrator or permitted by Ohio law. 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.

(b) Such employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the Municipality as a trustee for the benefit of the Municipality and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.

(c) An employer who deducts income tax of one hundred dollars (\$100.00) or more per month shall pay to the Administrator before the twentieth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer exceeds one hundred dollars (\$100.00) in taxes withheld.

(d) Payments shall be on a form furnished by or obtainable upon request from the Administrator or on such other form permitted by Ohio law.

(e) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Municipality, but such employee shall be subject to all of the requirements of this chapter.

(f) The employer or any agent of any employer or any other payer shall not be required, to withhold tax with respect to any amount other than "qualifying wages". Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

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

- (h) (1) An employee is not relieved from liability for tax by the failure of the employer to withhold the tax, as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(i) Compensation deferred before the effective date of this amendment is not subject to the Municipal income tax or Municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(Ord. 834. Passed 7-1-82; Am. Ord. 2345. Passed 6-8-06.)

#### 151.16 DECLARATION OF INCOME NOT COLLECTED AT SOURCE; FILING; FORM; PAYMENT.

(a) Every person who anticipates any taxable income which is not subject to § 151.15 or who engages in any business, profession, enterprise or activity subject to the tax imposed by § 151.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax liability due thereon, if any; provided, however, that if a person's income is wholly from qualifying wages or other compensation from which the tax will be withheld and remitted to the Municipality in accordance with § 151.15, such person need not file a declaration.

(b) The declaration required by subsection (a) hereof shall be filed on or before April 15 of each year during the effective period set forth in § 151.04 or within four months of the date the taxpayer becomes subject to the Municipal income tax for the first time. Fiscal year taxpayers shall file such declaration within four months after the beginning of each fiscal year or period.

(c) The declaration required by subsection (a) hereof shall be filed upon a form furnished by, or obtainable from, the Administrator or on such other form permitted by Ohio law; provided, however, that credit shall be taken for Municipal tax to be withheld from any portion of such income, in accordance with the provisions of §§ 151.21 or 151.22, credit may be taken for tax to be paid 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 date as provided for herein.

(d) Such declaration of estimated tax to be paid to the Municipality shall be accompanied by a payment made as set forth in subsection (e) or (f) below.

(e) Beginning January 1, 2003, an individual taxpayer required to make payment of estimated taxes shall remit such payments as follows:

- (1) Not more than 22.5% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of April or the day on which the annual tax return for the prior year is required to be filed disregarding any extension, as prescribed by ordinance or rule of the municipal corporation;

- (2) Not more than 45% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the thirty-first day of July;
- (3) Not more than 67.5% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the thirty-first day of October;
- (4) Not more than 90% of the taxpayer's estimated tax liability for the year referred to in division (B)(1), (2), and (3) of this section shall be required to have been remitted on or before the thirty-first day of January.
- (5) Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed by division (B) of this section.

(f) Beginning January 1, 2003, a taxpayer which is not an individual shall remit such payments as follows:

- (1) Not more than 22.5% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year;
- (2) Not more than 45% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of June or, in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year;
- (3) Not more than 67.5% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of September or, in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year;
- (4) Not more than 90% of the taxpayer's estimated tax liability for the current year shall be required to have been remitted on or before the fifteenth day of December or, in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's taxable year;

(g) Notwithstanding the foregoing requirements, the Municipality shall not impose any penalty, interest, interest penalty, or other similar assessment or charge against a taxpayer for the late payment or nonpayment of estimated tax liability in either of the following circumstances:

- (1) The taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.
- (2) The taxpayer has remitted, pursuant to division (e) or (f) of this section, an amount equal to 100%, or more, of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.17 EXTENSION OF TIME.

The Administrator may extend the time for filing any return required, making any payment or performing any other act, which is required by the provisions of §§ 151.14 to 151.16, inclusive, for a period of not more than six months beyond the original required date. (Ord. 512. Passed 12-15-69.)

#### 151.18 COLLECTION OF UNPAID TAXES; STATUTE OF LIMITATIONS.

All taxes imposed by this chapter shall be collectable, together with any interest and penalties there on, by civil action, as other debts of like amount are recoverable. Except in the case of fraud, omission of 25 % or more of income subject to this tax or of failure to file a return, an additional assessment shall not be made nor shall a civil action be filed after three years from the time the tax was due or the return was filed, whichever is later, provided, however, in those cases in which a 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.  
(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.19 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.  
(Ord. 512. Passed 12-15-69.)

#### 151.20 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than \$1 shall not be collected or refunded.  
(Ord. 512. Passed 12-15-69.)

#### 151.21 CREDIT FOR NONRESIDENT TAXPAYERS. (REPEALED)

(EDITOR'S NOTE: Former § 151.21 was repealed by Ordinance 1114, passed August 6, 1987.)

#### 151.22 CREDIT FOR RESIDENT TAXPAYERS.

(a) When a resident of the City is subject to a municipal income tax in another municipality on the same income taxable under this chapter, the resident taxpayer may claim a credit of the amount of income tax paid to the other municipality, but not in excess of 50% of the tax assessed by this chapter. For the purpose of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity. The credit shall be effective on January 1, 2005.

- (b) (1) In the event a City resident is entitled to credit for taxes paid to another municipality, the resident is required to file a return on a form in such manner as the Administrator may prescribe or on such other form as permitted by law.
- (2) Assignment of any claim for refund to which a resident taxpayer may be entitled from another municipality shall be tentatively accepted as payment of that portion of the City income tax represented by such assignment. Provided, however, that if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

- (3) In the event a resident taxpayer fails, neglects or refuses to file a municipal income tax return as required hereunder, on a form prescribed by the Administrator or other form permitted by Ohio law, the resident taxpayer shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(Ord. 2206. Passed 5-13-04; Am. Ord. 2345. Passed 6-8-06.)

#### 151.221 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

A refundable credit shall be allowed to individual taxpayers against the income tax imposed by the Municipality for each loss which qualifies under, and in an amount allowed by, R.C. § 718.021 sustained by the individual taxpayer during the taxable year.

(Ord. 2345. Passed 6-8-06.)

#### 151.222 JOB CREATION TAX CREDITS.

The Municipality, by ordinance, may grant a refundable or non-refundable credit against its tax on income to a taxpayer that also receives a tax credit under R.C. § 122.17 or a non-refundable credit to a taxpayer who receives a tax credit under R.C. § 122.171. The credit, if granted under this section, shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before passing an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all of the conditions of the credit.

(Ord. 2345. Passed 6-8-06.)

#### 151.23 CLAIM FOR CREDIT.

On and after January 1, 2005, any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed; provided that, in the case such claim for reciprocity refund has been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the Municipality on or before January 31 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(Ord. 2206. Passed 5-13-04.)

#### 151.24 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) The balance remaining after payment of the expenses referred to in subsection (a) above shall be deposited in the General Fund for Municipal purposes.

(Ord. 512. Passed 12-15-69.)



#### 151.25 DUTY TO RECEIVE TAX IMPOSED.

The Administrator shall receive from the taxpayers the tax imposed by this chapter in the manner prescribed herein, keep an accurate record thereof, and report all moneys so received.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.26 DUTY TO ENFORCE COLLECTION.

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

(Ord. 512. Passed 12-15-69.)

#### 151.27 ENFORCEMENT; RULES AND REGULATIONS AUTHORITY.

The Administrator is hereby charged with the enforcement 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 any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(Ord. 512. Passed 12-15-69.)

#### 151.28 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

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. Such 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 unpaid amount including penalty and interest, to become payable on demand and the provisions of §§ 151.18 and 151.47 of this chapter shall apply.

(Ord. 512. Passed 12-15-69.)

#### 151.29 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

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 appearing to be due the Municipality 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. 512. Passed 12-15-69.)

#### 151.30 INVESTIGATORY POWERS.

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax return of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. 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, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

(Ord. 512. Passed 12-15-69.)

#### 151.31 AUTHORITY TO COMPEL PRODUCTION OF RECORDS AND WITNESSES.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him 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.

(Ord. 512. Passed 12-15-69.)

#### 151.32 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons 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 chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in § 151.99. (Ord. 512. Passed 12-15-69.)

#### 151.33 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

(a) Any information gained as the result of returns, investigations, hearings or verifications required or authorized by the Ohio Revised Code, this chapter or by the Charter is confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by the Ohio Revised Code, this Chapter or the Charter. The Administrator may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State of Ohio Tax Commissioner.

(b) Any person divulging confidential information in violation of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty 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.

(c) In addition to the above penalty, any employee of the Municipality who violates this section and discloses confidential information shall be subject to immediate dismissal.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.34 TAXPAYER REQUIRED TO RETAIN RECORDS.

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. (Ord. 512. Passed 12-15-69.)

#### 151.35 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

Subject to approval by Council, the Administrator may and he is hereby authorized to enter into an agreement on behalf of the Municipality with any other municipal corporation for the purpose of administering the income tax laws of the Municipality as its agent and of providing a central collection facility for the collection of the income tax on behalf of the Municipality. (Ord. 512. Passed 12-15-69.)

#### 151.36 ASSIGNMENT OF DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

In the event the Administrator, on behalf of the Municipality enters into an agreement with any other municipal corporation to act as agent of the Municipality for the purposes of administering the income tax laws of the Municipality and of providing a central facility for the collection of the income tax, as provided in § 151.35, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation. (Ord. 512. Passed 12-15-69.)

#### 151.37 BOARD OF TAX REVIEW.

(a) A Board of Tax Review, consisting of the Mayor, the Law Director and a member of Council who shall be appointed by Council, is hereby created. The Board shall annually select one of its members to serve as chairman and one to serve as secretary for a one-year term. A majority of the members of the Board shall constitute a quorum. Any hearing by the Board shall be conducted privately and the provisions of § 151.33 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations, and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board before the same become effective. The Board shall hear an appeal 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.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.38 APPEAL TO BOARD.

(a) The Administrator shall notify the taxpayer in writing of the taxpayer's right to appeal the Administrator's decision imposing a municipal tax liability and the manner in which the taxpayer may appeal the decision.

(b) Any person who has filed an income tax return or other document required by the Municipality and is dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this Chapter may appeal in writing therefrom to the Board of Tax Review within thirty days from the announcement of such ruling or decision by the Administrator. The appeal shall state why the decision is unlawful or incorrect.

(c) The Board shall schedule a hearing within forty-five days after receiving the appeal, 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.

(d) The Board shall affirm, reverse, or modify the Administrator's decision or any part of that decision. The Board shall issue a final decision on the appeal within ninety days after the Board's final hearing on the appeal, and send a copy of its final decision by ordinary mail to all of the parties to the appeal within fifteen days after issuing the decision. The taxpayer or the Administrator may appeal the Board's decision as provided in R.C. § 5717.011.

(e) The Board shall adopt rules and regulations governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under R.C. § 149.43. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to R.C. § 121.22.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.39 INTENT; SEPARABILITY.

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. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 512. Passed 12-15-69.)

#### 151.40 COLLECTION AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned; it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes, or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in §§ 151.18, 151.19, 151.20, 151.41, 151.42 and 151.47.

(b) Annual returns due for all or any part of the last effective year of this chapter, shall be due on the date provided in §§ 151.09 and 151.15.

(Ord. 512. Passed 12-15-69.)

#### 151.41 LIMITATION ON PROSECUTION.

(a) Prosecution for a violation of any of the provisions of this chapter shall be commenced within three years after commission of the offense.

(b) In the case of fraud, failure to file a return or omission of 25% or more of income to be reported, prosecution shall be commenced within six years after commission of the offense.

(Ord. 512. Passed 12-15-69; Am. Ord. 2345. Passed 6-8-06.)

#### 151.42 FAILURE TO PROCURE FORMS.

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 or declaration, from filing such form or from paying the tax.

(Ord. 512. Passed 12-15-69.)

#### 151.43 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter of the Codified Ordinances of the Municipality of Chardon and remaining unpaid after they become due shall bear interest at the rate of six percent per annum or fraction thereof.

(Ord. 512. Passed 12-15-69.)

#### 151.44 PENALTIES ON UNPAID TAX.

In addition to interest as provided in § 151.44 here of, penalties based on the unpaid tax are hereby imposed as follows:

- (a) For failure to pay taxes due - other than taxes withheld; ten percent per annum or fraction thereof.
- (b) For failure to remit taxes withheld from employees; ten percent per month or fraction thereof. (Ord. 512. Passed 12-15-69.)

#### 151.45 EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability. (Ord. 512. Passed 12-15-69.)

#### 151.46 ABATEMENT OF INTEREST AND PENALTY.

Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown. (Ord. 512. Passed 12-15-69.)

#### 151.47 PROHIBITIONS; VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;

- (f) Fail to appear before the Administrator and produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
  - (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
  - (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
  - (i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof;
  - (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or knowingly give the Administrator false information; or
  - (k) 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.
- (Ord. 512. Passed 12-15-69.)

#### 151.99 PENALTY.

Whoever violates any provision of § 151.47 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense. (Ord. 512. Passed 12-15-69.)