

TITLE NINE - Taxation

- Chap. 183. Income Tax
 Chap. 185. Transient Occupancy Tax.
 Chap. 187. Motor Vehicle Licenses Tax.
 Chap. 189. Recreational Facilities Tax.

CHAPTER 183 Income Tax

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| 183.01 Purpose. | 183.11 Collection of unpaid taxes and refunds of overpayments. |
| 183.02 Definitions. | 183.12 Board of Review. |
| 183.03 Imposition of tax. | 183.13 Allocation of funds. |
| 183.04 Effective period. | 183.14 Credit for tax paid to another municipality or Joint Economic Development District. |
| 183.05 Return and payment of tax. | 183.15 Saving clause. |
| 183.06 Collection at source. | 183.16 Violations. |
| 183.07 Declarations. | 183.17 Requirements for Joint Development Districts. |
| 183.08 Duties of the Tax Commissioner. | 183.18 Information by landlords. |
| 183.09 Investigating powers of the Tax Commissioner; penalty for divulging confidential information. | 183.19 Mandatory registration. |
| 183.10 Interest and penalties. | 183.99 Penalty. |

CROSS REFERENCES

- Taxes - see CHTR. 9.01 et seq.
 Municipal income taxes - see Ohio R.C. Ch. 718

183.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension, and enlargement of municipal services and facilities, and capital improvements of the City there is levied a tax on salaries, wages, commissions, and other compensation, and on the net profits as hereinafter provided.
 (Ord. 54-03. Passed 12-2-03.)

183.02 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio R.C. 5745.03 or to the net profit from a sole proprietorship.
- (2) "Association" means a partnership, limited partnership, S Corporation or any other form of unincorporated enterprise, owned by two or more persons.
- (3) "Board of Review" means the Board created by and constituted as provided for in Section 183.12.
- (4) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual partnership, association, corporation, or any other entity including but not limited to the renting or leasing of property, real, personal or mixed.
- (5) "Corporation" means a corporation or joint association having ten or more shareholders organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (6) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (7) "Employee" means one who works for wages, salary, commissions, or other types of compensation in the services of any employer.
- (8) "Employer" means an individual, partnership, association, corporation, governmental body, unit, or agency, or other entity, whether or not organized for profit, and including the officers and senior resident manager, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (9) "Fiscal Year" means an accounting period of twelve months ending on any other day than December 31.
- (10) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (11) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.
- (12) "Gross receipts" means total income of taxpayers from whatever source derived.

- (13) "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 Ohio R.C. Chapter 5701, and patents, copyrights, trademarks, tradenames, 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.
- (14) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (15) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub-network known as the world wide web.
- (16) "Joint Economic Development District" means districts created under Ohio R.C. 715.70 through 715.83, as amended from time to time.
- (17) "Limited liability company" means a limited liability company formed under Ohio R.C. Chapter 1705 or under the law of another state.
- (18) "Municipality" means the City of Harrison.
- (19) "Net profits" for a taxpayer other than an individual, means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 183.03(c) required to be reported on schedule C, schedule E, or schedule F.
- (20) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (21) "Nonresident" means an individual, domiciled outside the Municipality.
- (22) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (23) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (24) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.
- (25) "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.
- (26) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.
- (27) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his employees, regularly in attendance.
- (28) "Principal place of business" means in the case of an employer having headquarters activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters activities at a place of business within a taxing municipality the term means the largest place of business located in a taxing municipality.

- (29) "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.
- (30) "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 Ohio R.C. 718.03 (A).
- (31) "Resident" means an individual, domiciled in the Municipality.
- (32) "Resident incorporated business entity" means an incorporated business entity whose office, place or operations or business situs is within the Municipality.
- (33) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (34) "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.
- (35) "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (36) "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
- (37) "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
- (38) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 Subtitle A of the Internal Revenue Code for its taxable year.
- (39) "Tax Commissioner" means the Tax Commissioner of the City or the person executing the duties of the aforesaid Commissioner.
- (40) "Tax year" means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (41) "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 chapter.
- (42) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (43) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.
(Ord. 54-03. Passed 12-2-03.)

183.03 IMPOSITION OF TAX.

(a) **Basis of Imposition.** Subject to the provisions of Section 183.15, an annual tax for the purposes specified in Section 183.01 hereof, shall be, and is hereby levied on and after April 1, 1982, at the rate of 1% per annum upon the following:

- (1) The qualifying wages, commissions, other compensation and other taxable income earned, and received by residents of the Municipality.
 - A. Amount received as gambling winnings and reported on IRS Form W-2G or Form 5754 and or any other form from the Internal Revenue Service that reports winning from gambling. Gambling includes but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.
- (2) Qualifying wages, commissions, and other compensation earned or received by nonresidents for work done or service performed or rendered, in the Municipality.
- (3)
 - A. On the portion attributable to the Municipality of the net profit earns during the effective period of this chapter of all resident associations, unincorporated businesses, pass-through entities, professions, or other activities derived from sales made, work done, or services performed or rendered, or business or the activities conducted in the Municipality.
 - B. On a resident partner's or owner's share of the net profits earned during the effective period of this chapter of a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.
- (4)
 - A. On the portion attributable to the Municipality of the net profits, earned during the effective period of this chapter, of all nonresident associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered or business or other activities conducted in the Municipality, whether such association or other unincorporated entity has no office or place of business in the Municipality.
 - B. On a resident partner's or owner's share of the net profits earned during the effective period of this chapter, of a nonresident association or other unincorporated entity not attributable to the Municipality, and not levied against such association or other unincorporated entity.
- (5) On the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, or services performed or rendered, and business or other activities conducted in the Municipality whether or not such corporations have an office or place of business in the Municipality.

(b) Allocation of Net Profits. Businesses both in and outside the municipal boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Ohio R.C. Chapter 5745. Except as otherwise provided in subsection (d) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following.

- (1) Multiply the entire net profits of the business by a business apportionment percentage formula to be determined by:
 - A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
 - B. Wages, salaries, and other compensation paid during the taxable period to persons, employed in the business or profession, for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Ohio R.C. 718.011.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
 - D. Adding together the percentage determined in accordance with subsections (b)(1)A. to C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving the total.
 1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 2. Provided, however, that in the event a just and equitable result cannot be obtained under the business apportionment percentage formula provided for herein, the, upon application of the taxpayer the Tax Commissioner shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

- (2) As used in subsection (b) hereof, "sales made in a municipal corporation" means:
- A. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - B. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
 - C. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (c) Operating Loss Carry-Forward.
- (1) The portion of a net operating loss sustained in any taxable year, subsequent to April 1, 1982, apportioned to the Municipality, may be applied against the portion of the profit of succeeding years, apportioned to the Municipality, until exhausted, but in no event for more than three taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
 - (2) The portion of a net operation loss sustained shall be apportioned to the Municipality in the same manner as provided herein for apportioning net profits to the Municipality.
 - (3) The Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
 - (4) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.
- (d) Consolidated Returns.
- (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
 - (2) Once a consolidated return has been filed for any taxable consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the rules and regulations for discontinuing the filing of consolidated returns have been met.

(e) Exclusions.

- (1) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in Ohio R.C. Chapter 718 to the extent that such net profits are exempted from municipal income taxes under the section.
- (2) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
- (3) Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold municipal tax from that compensation.
- (4) The income of a public utility when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30, except a municipal corporation may tax the following, subject to Ohio R.C. Chapter 5745:
 - A. The income of an electric company or combined company.
 - B. The income of a telephone company.
- (5) 12-Day Occasional Entry Rule. The City of Harrison shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - B. The individual is professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

(Ord. 54-03. Passed 12-2-03.)

183.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected, and paid with respect to all income and net profits, subject to the tax, earned on or after April 1, 1982
(Ord. 54-03. Passed 12-2-03.)

183.05 RETURN AND PAYMENT OF TAX.

(a) Dates and Mandatory Filing. Each resident or person who, engaged in business, or whose qualifying wages, commissions, other compensation and other taxable income are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file, on or before April 15 of the year following the effective date of this Tax Code in each year, a return with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this chapter, file his return on or before the fifteenth day of the fourth month following the end of such fiscal year or period. The Tax Commissioner is authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the qualifying wages, commissions, other compensation and other taxable income of a non resident employee, and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages, commissions, other compensation, and other taxable income.

(b) Returns and Contents Thereof. The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner. The City of Harrison shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of information required to be submitted with the City of Harrison prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the City of Harrison governing the filing of returns, reports or documents:

- (1) The aggregate amounts of qualifying wages, commissions, other compensation, received, allocated, apportioned or set aside, other income defined by statute as taxable and gross income from any business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to the tax.
- (2) The amounts of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, copies of Federal or State tax returns and/or schedules, or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.
- (4) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to the Municipality alone.

(c) Extensions. The Tax Commissioner may extend the time for filing the annual return upon the request of the taxpayer. If the request is granted the extended due date of the municipal income tax return shall be the last day of the month beyond any extension granted by the Internal Revenue Service for filing of the federal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Commissioner. Any taxpayer not required to file a federal income tax return may request an extension for filing a City of Harrison tax return in writing. The request for extension shall be filed not later than the last day for filing the City of Harrison tax return as prescribed by ordinance or rule of this municipal corporation.

The City of Harrison may deny a taxpayer's request for extension if the taxpayer:

- (1) Fails to timely file the request;
- (2) Fails to file a copy of the federal extension request (if applicable);
- (3) Owes the City of Harrison any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
- (4) Has failed to file any required income tax return, report, or other related document for a prior tax period.

The granting of an extension for filing a City of Harrison income tax return does not extend the last date for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 183.10. The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period extended. Any extension by the Tax Commissioner shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination, it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(d) Payments with Returns.

- (1) The taxpayer making return shall at the time of the filing thereof pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax has been deducted at the source, pursuant to the provisions of Section 183.06, or where any portion of the tax shall have been paid by the taxpayer, pursuant to the provisions of Section 183.07 or where an income tax, creditable against the City tax pursuant to Section 183.14 has been paid to another municipality, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.
- (2) For the year 1982 the tax liability shall be based on three-fourths of the taxpayer's entire income for the year.
- (3) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(e) Amended Returns.

- (1) Where necessary an amended return must be filed in order to report additional income and pay an additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Sections 183.11 and 183.14. Such amended returns shall be on a form prescribed by or acceptable to the Tax Commissioner. Within three 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 municipal tax based upon such final determination of federal tax liability, and pay any additional tax shown thereon, or make claim for refund of any overpayment.
- (2) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Commissioner, or his authorized representative, to file the items required by this paragraph.
(Ord. 54-03. Passed 12-2-03.)

183.06 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business with, the Municipality, who employs one or more persons on a salary, wage, commission, or other compensation basis shall deduct the amount of taxes set forth in Section 183.03 at the time of the payment of such qualifying wages and shall make a return and pay the Tax Commissioner the amount of taxes so deducted according to the following payment schedule. Monthly payments of taxes withheld shall be made by an employer if said deductions exceed two hundred dollars (\$200.00) per month. Withheld taxes of two hundred dollars (\$200.00) or less per month shall be made quarterly. Quarterly withheld taxes are due by the end of the month succeeding the deduction period. Monthly withheld taxes are due on or before the fifteenth (15th) day of the month succeeding the deduction period. Said return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subjected to the rules and regulations prescribed therefore by the Tax Commissioner. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

- (1) 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.
- (2) An employee is not relieved from liability for a 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. 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.

(b) Employer Considered as Trustee. Each 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. Each employee shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(c) Corporate Officers' Personal Liability. It shall be the responsibility, jointly and severally, of the officers of each corporation required to withhold the tax from wages of its employees under this section to see that all such taxes so withheld are paid to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of its employees are not paid to the Municipality in accordance with the provisions of this section, the officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and shall each be criminally liable under the provisions of Section 183.99. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(d) Employees' Listings. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, if any, was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before the February 28th following the end of such calendar year. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payment to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or Federal Identification Number), and the amount of the payments made. Federal Form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28th following the end of such calendar year.

(e) Domestic Servants. Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
(Ord. 54-03. Passed 12-2-03.)

183.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 183.06 hereof, or engages in any business, profession, enterprise, or activity, shall file a declaration setting forth such estimated income or the estimated profits or loss from such business activity, together with the estimated tax due thereon, if any.

(b) Dates for Filing.

- (1) Such declaration, beginning with the year 1983, and thereafter during the life of this chapter, shall be filed, and thereafter during the life of this chapter, on or before April 15, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer first becomes subject to the provisions of this section.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each year or period.

(c) Forms; Payment Dates.

- (1) Such declaration shall be filed upon a form prescribed by or acceptable to the Tax Commissioner. The City of Harrison shall accept a generic form if it contains all of the information required to be submitted. Credit shall be taken in the declaration for City tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against the City tax (see Section 183.14 hereof).
- (2) For the year 1982 declarations shall be filed on or before July 31, and shall be based on the taxpayer's estimate of three-fourths of his income to be received during the entire year. However, a final return for such year must be filed by every person having taxable income regardless of whether or not any tax is due to the City.
- (3) In the year 1982, a declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-third, and in the year 1983 and thereafter for taxpayers who are individuals at least twenty-two and one half percent (22.5%) of the estimated tax, less credit for taxes withheld or paid to another municipality, and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the tax year.
- (4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.
- (5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) Amended Declarations. An amended declaration may be filed anytime, provided, however, that in case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) Annual Return Required. On or before the fifteenth day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 183.05.
(Ord. 54-03. Passed 12-2-03.)

183.08 DUTIES OF THE TAX COMMISSIONER.

(a) Collection and Maintenance Responsibility.

- (1) There is created an independent department to be titled the City Income Tax Bureau for the administration of the provisions of this chapter. Such Bureau shall consist of a Tax Commissioner, Deputy Tax Commissioner, and such clerical and secretarial personnel as may be determined to be necessary for the administration of this chapter. All such personnel shall be appointed by the Mayor with the consent of Council. The Tax Commissioner and Deputy Tax Commissioner shall also be Deputy City Finance Director, for the purpose of collecting and depositing all income tax revenue.
- (2) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed therein, and to keep an accurate record thereof, and to report all moneys so received.
- (3) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six years, showing the amount due from each taxpayer required to file a declaration or make any return including a return of taxes withheld, and to show the dates and amounts of payments thereof.

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

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

(d) Compromise Authority. Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter. Upon the demonstration and documentation of good cause, the Tax Commissioner shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter and the Rules and Regulations. (Ord. 54-03. Passed 12-2-03.)

**183.09 INVESTIGATING POWERS OF THE TAX COMMISSIONER;
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

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

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

(c) Result of Refusal to Submit Information. The refusal to produce books, papers, records, and federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized shall be deemed a violation of this chapter punishable as provided in Section 183.99.

(d) Retention of Records by Taxpayer. Every taxpayer shall retain records necessary to compute his tax liability for a period of six years from the date his return is filed or the taxes required to be withheld are paid.

(e) Confidential Nature of Information. Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, and no disclosure thereof shall be made except to municipal, county, state, or federal taxing agencies, or except for official purposes as the Director of Law shall determine, or except in accordance with proper judicial order.

Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for no more than six months or both. In addition to the above penalty, any employee of the Municipality who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 54-03. Passed 12-2-03.)

183.10 INTEREST AND PENALTIES.

(a) If any taxpayer or employer required to file a return by this chapter fails to make and file the return by the dates prescribed therein, including any extension of time granted by the Tax Commissioner, whether or not a tax is due, unless it is shown that the failure is due to reasonable cause, and not to willful neglect, a penalty of twenty-five dollars (\$25.00) shall be assessed by the Tax Commissioner. If any employer or taxpayer fails to pay the amount of tax required to be paid under Section 183.05 by the dates described therein, unless it is shown that the failure is due to reasonable cause and not a willful neglect, a penalty of five percent (5%) of the tax required to be shown on the return shall be assessed by the Commissioner for each month or fraction thereof elapsing between the date prescribed for payment, including extensions, and the date of payment. In addition, the taxpayer will be liable for interest on the unpaid taxes. Such interest shall be eight percent (8%) per annum. For purposes of this section, the tax required to be shown on the tax shall be reduced by the amount of any part of the tax which is paid on or before the date, including extensions of thereof, prescribed for filing the return.

Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.

(b) Exceptions. A penalty shall not be assessed or an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability. No penalty or interest shall be charged against a taxpayer for the late payment or non payment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

(c) Abatement by Board of Review. Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.
(Ord. 54-03. Passed 12-2-03.)

183.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Time Limitations on Suits. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable within the time limitation provided in Ohio R.C. 718.06.

(b) Time Limitations on Refunds. Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time limitation provided in Ohio R.C. 718.06.

- (1) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. 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.
- (2) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

(Ord. 54-03. Passed 12-2-03.)

183.12 BOARD OF REVIEW.

(a) Composition. A Board of Review consisting of three persons, who shall be appointed by the Mayor with the consent of Council, is hereby created. The individual acting as the local administrator of the tax shall act as secretary of the Board. Board members shall receive such compensation as Council may determine.

(b) Procedure. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio R.C. 149.43. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Ohio R.C. 121.22.

(c) Appeals. Whenever the Tax Commissioner issues a decision regarding any income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the City of Harrison, the Tax Commissioner shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision. Any person dissatisfied with any ruling or decision of the Tax Commissioner and who has filed with the City of Harrison the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within 30 days from the announcement of such ruling or decision by the Tax Commissioner. The imposition of penalty and interest as prescribed in the Codified Ordinances of the City of Harrison is not a sole basis for an appeal. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative. The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Commissioner may appeal the Board's decision as provided in Ohio R.C. 5717.011.
(Ord. 54-03. Passed 12-2-03.)

183.13 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited at least monthly in the General Fund and the funds collected from the imposition date of the tax under this chapter shall be disbursed for the following to wit:

- (a) Such part thereof as shall be necessary to defray all cost of collecting the taxes and the cost of administering and enforcing the provisions thereof.
- (b) The balance of any moneys collected under the provisions of this chapter shall be allocated as follows: 100% to the General Fund for the purpose of general municipal operations.
(Ord. 54-03. Passed 12-2-03.)

183.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICT.

- (a) Limitation on Amount Paid. Every individual taxpayer who resides in the Municipality and who receives salaries, wages, commissions, or other compensation or net profits from sales made, work done, or services performed or rendered outside the Municipality, if it be made to appear that he has paid a municipal income tax on such income, taxable under this chapter, to another municipality, shall be allowed a credit for such tax paid, against tax imposed by this chapter in an amount not to exceed the tax due the City.
- (b) Credits and Limitations Thereof. Notwithstanding the provisions contained in Section 183.11, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return and unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from the taxpayer's wages, salaries, or commissions for other municipalities.
- (c) The Municipality shall grant a credit against the tax imposed by this chapter to every taxpayer who works in a Joint Economic Development Zone created under Ohio R.C. 715.691 or 715.72. The credit shall not exceed the tax assessed by this chapter on such income earned in such Joint Economic Development Zone or Joint Economic Development District where such tax is paid.
- (d) Except as provided in subsection (e) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.
- (e) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (d) hereof shall be calculated using the tax rate in effect in the second municipal corporation.
- (f) A claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide.
(Ord. 54-03. Passed 12-2-03.)

183.15 SAVING CLAUSE.

This chapter shall not apply to any person, firm, or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section, or part of this chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of Council of the Municipality that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, or part hereof, not been included therein.
(Ord. 54-03. Passed 12-2-03.)

183.16 VIOLATIONS.

(a) Enumeration of Violations. Any person who shall:

- (1) Fail, neglect, or refuse to make any return or declaration required by this chapter;
- (2) Make an incomplete, false, or fraudulent return;
- (3) Fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this chapter;
- (4) Fail, neglect, or refuse to withhold the tax from his employees and remit such withholdings tax to the Tax Commissioner;
- (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or her employer's books, records, papers and federal income tax returns;
- (6) Fail to appear before the Tax Commissioner and to produce his or her employer's books, records, papers, or federal, state, county, and municipal income tax returns upon order or subpoena of the Tax Commissioner;
- (7) Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or the net profits;
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner;
- (9) Fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section 183.07;
- (10) Fail, as an officer or resident manager of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this chapter to be paid to the Municipality in accordance with the provisions of Section 183.06; or
- (11) 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 shall be penalized as provided in Section 183.99.

(b) Time Limitations on Prosecutions. All criminal prosecutions under this section must be commenced within the time limitation contained in Ohio R.C. 718.06.

(c) Failure to Obtain Forms Not a Defense. The failure of any employer, taxpayer, or person to receive or procure a return, declaration, or other required form shall not excuse him from making any information return, or declaration, from filing such form, or from paying the tax.

(d) Responsibility of Corporation Employees. The term "Person" as used in this section shall, in addition to the meaning prescribed in Section 183.02, include in the case of an association or corporation not having any partner, member, or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 54-03. Passed 12-2-03.)

183.17 REQUIREMENTS FOR JOINT ECONOMIC DEVELOPMENT DISTRICTS.

Specific provisions of this Chapter may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development district contract or specifically amends this Chapter. (Ord. 54-03. Passed 12-2-03.)

183.18 INFORMATION BY LANDLORDS.

All Landlords are required to furnish the Tax Commissioner by the last day January, April, July, and October a list of any tenants who have moved either in or out of any property owned by them in this Municipality. The report shall show the name, address and telephone number, if available, of each such tenant together with the date of such move and the former tenant's current address.
(Ord. 54-03. Passed 12-2-03.)

183.19 MANDATORY REGISTRATION.

(a) Each new resident of the City shall register with the Tax Commissioner of the City to become subject to the City Income Tax within thirty days of residence in the City.

(b) All employers and contractors who do work in the City shall register with the Tax Commissioner within thirty days after they become taxable and shall present the Tax Commissioner with a list of all subcontractors or others who may do work for them within the City.

(c) Any person upon written notification by the City of this requirement for mandatory registration who fails to register within thirty days upon receipt of notification shall be considered in violation of this section and shall be subject to a fine not more than one hundred dollars (\$100.00). (Ord. 54-03. Passed 12-2-03.)

183.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree, for each offense. (Ord. 54-03. Passed 12-2-03.)