

CHAPTER 181  
Income Tax

- 181.01 Definitions.
- 181.02 Imposition of tax.
- 181.03 Allocation of net profits.
- 181.04 Levy of tax.
- 181.05 Return and payment of tax.
- 181.06 Amended return and refund for overpayment.
- 181.07 Collection at source.
- 181.08 Declarations.
- 181.09 Mandatory registration.
- 181.10 Division of income taxation.
- 181.11 Investigations.
- 181.12 Assessment.
- 181.13 Tax information confidential.
- 181.14 Collection of unpaid taxes.
- 181.15 Interest and penalties.
- 181.16 Violations; penalties.
- 181.17 Exemptions.
- 181.18 Credit for tax paid to another municipality.
- 181.19 Contract provisions.
- 181.20 Allocation of funds.
- 181.21 Saving clause.
- 181.22 Board of Appeals.

CROSS REFERENCES

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

181.01 DEFINITIONS.

The following words shall have the meanings ascribed to them in this section unless the context clearly indicates or requires a different meaning.

(a) The singular shall include the plural. The masculine gender shall include the feminine and the neuter genders.

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

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

(d) "City" means the City of Hilliard, Ohio.

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

(f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

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

(h) "Gross receipts" means a total income from any source whatsoever.

(i) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provisions 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 without deduction of taxes imposed by this chapter, or by federal, state or other taxes based on income and in the case of an association, without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.

(j) "Nonresident individual" means an individual who is not domiciled in the City and whose usual place of abode is outside of the City.

(k) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.

(l) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "person," as applied to any unincorporated entity, means the parties or members thereof, and as applied to corporations, the officers thereof.

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

(n) "Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City.

(o) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.

(p) "Tax Administrator" means the person who has been designated to act as the administrative head of the Department of Income Taxation or the person executing the duties of the aforesaid Administrator.

(q) "Taxable income" means wages, salaries, commissions and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity, including rents, adjusted in accordance with the provisions of this chapter.

(r) "Taxable year" means the calendar year or the fiscal year upon the basis of which the 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.

(s) "Taxpayer" means a person, whether an individual, copartnership, association or any corporation or other entity required hereunder to file a return or pay a tax.

(Ord. 94-10. Passed 3-28-94.)

(t) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or the laws of another State.

(u) "Pass through entity" means a partnership, corporation, limited liability company or any other class or entity, The income or profits from which are given pass-through treatment under the Internal Revenue Code.

(v) "Pass-through entity income" means partnership income of partners, distributive shares from an S Corporation to share holders, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of other pass-through entities.

(w) "S Corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(Ord. 02-71. Passed 12-23-02.)

## 181.02 IMPOSITION OF TAX.

To provide for the purposes of general municipal operations, maintenance, new equipment and capital improvements and to provide for the payment of principal and interest on certain bond issues of the City, there is hereby levied a tax at the rate of two percent (2%) per annum on the following:

(a) Residents. On all salaries, wages, commissions and other compensations, earned or received by residents of the City.

(b) Nonresidents. On all salaries, wages, commissions and other compensations, earned or received by nonresidents of the City for work done or services performed or rendered in the City.

(c) Net Profits.

(1) On the net profits earned or received of all unincorporated businesses, professions or other activities conducted in the City by residents of the City.

(2) On the net profits earned or received of all unincorporated businesses, professions or other activities conducted in the City by nonresidents.

(3) For the purpose of subsections (c)(1) and (2) hereof, an association shall be taxed as an entity on the net profits of the association derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principle or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1994.

(4) For the purposes of subsection (c)(1) hereof, a resident of the City who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under subsection (c)(3) hereof, effective for all accounting periods commencing on or after January 1, 1994.

(d) Net Profits of Corporations. On the net profits of all corporations, estates and trusts, derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations, estate and trusts have their principal place of business located in the City.

(e) Vacation and sick pay. Payments made to employees by an employer as vacation wages are taxable and payments made to any employee by an employer under a wage continuation plan during periods of disability or sickness are taxable.

(f) Rentals from real property.

(1) Rentals received by the taxpayer are to be included only if and to the extent that the rentals, ownership, management or operation of the real estate from which the rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(2) Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of one hundred dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of the rental properties shall be subject to tax. In case of commercial property, the owner 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 dollars (\$100.00) per month. In the case of farm property, the owner shall be considered engaged in a business activity when he shares in the 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 dollars (\$100.00) per month. The person who operates a rooming house of five or more rooms rented shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.

(3) In determining the amount of gross monthly rental of any real property, periods during which by reason of vacancy or any other cause rentals are not received, shall not be taken into consideration by the taxpayer.

(4) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(5) Real property, as the term is used in this section, includes commercial property, residential property, farm property and any and all other types of real estate.

(6) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for federal income tax purposes.

(7) Residents of the City are subject to taxation on the net income from rentals to the extent above specified, regardless of the location of the real property owned.

(8) Nonresidents of the City are subject to such taxation only if the real property is situated within the City. Non-residents, in determining whether gross monthly rentals exceed one hundred dollars (\$100.00) shall take into consideration only real estate situated within the City.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.  
(Ord. 94-10. Passed 3-28-94.)

(g) Resident's Distributive Share. On a resident's entire distributive share income from pass-through entities conducting business outside the City of Hilliard. Income from a pass-through entity shall include partnerships, S Corporations, limited liability companies and trusts. Credit imposed by this section shall be given for the tax paid to any other to any other municipality under Section 181.02 of this chapter.  
(Ord. 02-71. Passed 12-23-02.)

### 181.03 ALLOCATION OF NET PROFITS.

(a) In the taxation of income which is subject to the tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for purposes of the tax. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of the tax in the same proportion as the average ratio of:

(1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used herein, 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 in the business or profession for services performed in the City, to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Tax Administrator so as to produce such result.

(c) As used in this chapter, "sales made in the city" means:

(1) All sales of tangible personal property which is delivered within the City, regardless of where title passes, if shipped or delivered from a stock of goods within the City;

(2) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.  
(Ord. 94-10. Passed 3-28-94.)

#### 181.04 LEVY OF TAX.

(a) Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, rents and all other compensation earned or received unless specifically excluded in Section 181.17 on and after July 1, 1983, and with respect to the net profits of business, profession or other activities earned or received on and after July 1, 1983. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year the tax shall be applied to that part of the net profits for the fiscal year as shall be earned or received on and after July 1, 1983, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

(b) Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing initial tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve and multiplying the quotient by the number of months within the period commencing July 1, 1983, and ending at the conclusion of the fiscal year.  
(Ord. 94-10. Passed 3-28-94.)

## 181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer who engages in business, or whose salaries, wages, commissions, rents and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year with the Tax Administrator on a form furnished by or obtained from the Tax Administrator, setting forth the aggregate amount of salaries, wages, commissions, rents and other compensation earned or received and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Tax Administrator may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the fifteenth day of the fourth month after the close of such fiscal year or other period. Any return not so filed shall be subject to a penalty of twenty-five dollars (\$25.00) and shall be subject to penalties and interest as provided for in Section 181.15.

(b) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits. A husband and wife, in any taxable year, may elect to file separate or joint returns.

(c) If a net operating loss has been sustained in any taxable year, such loss may not be carried forward or backward to any other taxable year.

(d) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.

(e) The taxpayer making a return shall at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 181.07, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 181.08, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.18 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.



(f) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided there is no other tax liability. However, no amount of less than one dollar (\$1.00) shall be refunded or collected.

(g) Any taxpayer subject to the provisions of this chapter may, in lieu of filing a detailed return prescribed by the Tax Administrator, file a statement of salaries, wages, commissions, net profits or gross receipts before taxes in respect thereof and dividends paid or declared reported on his income tax return to the Federal government, increased by any deferred compensation excludable from current Federal taxation. The taxpayer filing such statement shall pay the tax of two percent (2%) per annum hereby levied on the amount reported in such statement.

(h) The Tax Administrator shall have the authority to extend the time for filing the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. This extends the time for filing only, not the payment of any tax that may be due. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(Ord. 94-10. Passed 3-28-94.)

#### 181.06 AMENDED RETURN AND REFUND FOR OVERPAYMENT.

(a) Where an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 181.05(e), such amended return shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or 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 City tax liability, the taxpayer shall make and file an amended City return showing income subject to the City tax based upon the final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

(c) Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayers City return, such taxpayer shall make and file an amended City return and pay any additional tax shown thereon.

(d) No refund shall be allowed unless a written request is presented to the Tax Administrator within three years of the date the taxes were due.

(Ord. 94-10. Passed 3-28-94.)

## 181.07 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the City shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax of two percent (2%) of the gross salaries, wages, commissions or other compensation due by such employer to such employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the City the amount of taxes so deducted and a record of payment showing that all taxes deducted during the quarter have been paid to the City in accordance with the payment schedule outline below. 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. The employer shall retain records necessary to compute tax liability for five years from the date the return is filed, or taxes required to be withheld are paid.

(b) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

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

(2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than one thousand one hundred ninety-nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of the calendar quarter by employers making monthly payments pursuant to this paragraph need not be paid until the last day of the month following such quarter.

(3) All employers who are not required to make semimonthly or monthly payments of taxes withheld under subsections (b)(1) and (2) hereof shall make quarterly payments no later than the last day of the month following the end of each quarter.

(c) The employer shall make and file a return on a form furnished by the Tax Administrator showing the amount of tax deducted by the employer from the

salaries, wages, commissions or other compensation of any employee and paid by the employer to the City.

(d) Each employer on or before January 31, unless written request for thirty days extension is made to and granted by the Tax Administrator following any calendar year in which such deductions have been made, or should have been made by any employer, shall file with the Tax Administrator an information return (Hilliard Reconciliation of Semi-monthly, Monthly, Quarterly Returns of Hilliard Income Tax Withheld from Wages (Form EQR) With Annual Withholding Information) for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid such employee during the year, and the amount of City Income Tax withheld from each employee. In addition, each Form (W-2) shall show the employer's name, address, and City account number. An adding machine tape or list of amount of tax withheld and taxable wages as shown on the W-2's shall be attached with the number of W-2's shown. Any return not so filed shall be subject to a penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of two hundred fifty dollars (\$250.00).

(e) In addition to the above, any person paying money to an individual independent contractor shall report such payment. The information should be reported on Federal Form 1099 and filed yearly with the Tax Administrator on or before January 31st.

(f) Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.

(g) Every employer or officer of a corporation is deemed to be a trustee for this City in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(h) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a failure of the corporation to file returns or pay tax due prior to dissolution. (Ord. 94-10. Passed 3-28-94.)

## 181.08 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.07 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.02, shall file a declaration setting forth the estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with Section 181.07, such person need not file a declaration.

(b) The declaration shall be filed on or before April 15 of each year during the effective period of this chapter, or within 105 days after the taxpayer becomes subject to tax for the first time.

(c) Those taxpayers who report on a fiscal year basis shall file a declaration within 105 days after the beginning of each fiscal year or period.

(d) The declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator. However, credit shall be taken for the City tax to be withheld from any portion of such income. Credit may be taken for tax paid to other municipalities in accordance with the provisions allowed in Section 181.18.

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

(f) The declarations of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year. However, if an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 181.05.

(h) A declaration of estimated tax which is less than eighty percent (80%) of the tax as shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 181.15.

(Ord. 94-10. Passed 3-28-94.)

#### 181.09 MANDATORY REGISTRATION.

(a) All employees, contractors or subcontractors who do work in the City shall register with the Tax Administrator, and shall present a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the City income tax.

(b) Commencing September 1, 1994, and annually thereafter, each owner, or his duly designated agent, of real property located within the City and which is rented or available for rent as of that date shall submit to the Tax Administrator a list of those tenants occupying or having occupied these rental units during the year, and those units presently vacant. For purposes of this section, "rental units" includes any unit of real property which is subject to a rental agreement whether oral or written, for residential, commercial or industrial purposes.

(c) Any person who violates this section shall be guilty of a misdemeanor and shall be subject to a fine of five dollars (\$5.00) per day for each and every day they remain in violation or subject to a maximum penalty of two hundred fifty dollars (\$250.00).

(Ord. 94-10. Passed 3-28-94.)

#### 181.10 DIVISION OF INCOME TAXATION.

(a) There is established within the Department of Finance a Division of Income Taxation of which the Tax Administrator shall be the administrative head. The Division shall be responsible for all matters constituting the subject matter of this chapter. The Finance Director shall appoint such other officers and employees as may be provided for by Council.

(b) The Tax Administrator shall collect and receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, shall keep an accurate record thereof and shall report and turn over to the City Finance Director all moneys so received.

(c) The Tax Administrator shall enforce payment of all taxes owing the City, shall keep accurate records for a minimum of five years showing the amount due from each tax payment and the date of the payment.

(d) The Tax Administrator is charged with the administration and enforcement of the provisions of this chapter. He is empowered to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

(e) The Tax 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 Tax 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.  
(Ord. 94-10. Passed 3-28-94.)

(f) Nothing in this Chapter 181 - Income Tax shall be deemed to prevent the exercise of any of the powers and duties imposed on any officer or department of the City by any person or agency, including a Regional Council of Governments, with which the City may contract for the administration and/or enforcement of the provisions of this chapter, it being the intent hereof that all enforcement powers granted to any officer or department of the City may be exercised by such contracting party.  
(Ord. 07-02. Passed 2-12-07.)

#### 181.11 INVESTIGATIONS.

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

(b) The Tax Administrator is authorized to order any person presumed to have knowledge of the facts to appear before him. He may examine the person, under oath, concerning any income which was or would 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 those persons have knowledge of the income or information pertinent to the inquiry.  
(Ord. 94-10. Passed 3-28-94.)

#### 181.12 ASSESSMENT.

(a) If the Tax Administrator finds that any taxpayer, or any employer subject to the provisions of Section 181.07 has failed to pay the full amount of the tax due or funds withheld, he shall issue a proposed assessment showing the

amount of tax or funds due and unpaid together with any interest and penalty that may have accrued thereon.

(b) Such proposed assessment shall be served upon the taxpayer or employer, as the case may be, in person or by mailing to the last known address of such taxpayer or employer. Proof of mailing such proposed assessment shall be presumptive proof of receipt thereof by the addressee.

(c) A taxpayer or employer shall have twenty day's after receipt of a proposed assessment within which to file a written protest with the Tax Administrator. The Tax Administrator then shall give the protestant an opportunity to be heard. After the hearing the Tax Administrator shall issue a final assessment setting forth the total amount found due in the proposed assessment, and any adjustment he may have made as a result of the protest. Such final assessment shall be served in the same manner as a proposed assessment.

(d) In the event a protest is not filed in response to a proposed assessment, it shall become final the twenty-first day after receipt thereof by a taxpayer or employer, and notice thereof shall be served in the same manner as in the case of a proposed assessment.  
(Ord. 94-10. Passed 3-28-94.)

#### 181.13 TAX INFORMATION CONFIDENTIAL.

(a) Any information gained as the result of any returns, investigations, hearing or verifications required or authorized by this chapter shall be confidential, except for official tax purposes, or in accordance with proper judicial order, or as hereinafter provided. The Finance Director may furnish the Internal Revenue Service, the Treasury Department of the United States, the Tax Commissioner of Ohio and the duly authorized Income Tax Administrator of any other city or state with copies of the returns filed. The Finance Director is also authorized to enter into agreements for the exchange of any information with any of the foregoing Federal, State or City officials.

(b) Any person divulging such information, except as hereinbefore authorized, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates the provision of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City.  
(Ord. 94-10. Passed 3-28-94.)

#### 181.14 COLLECTION OF UNPAID TAXES.

(a) 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.

(b) The Tax Administrator is authorized in addition to his other duties to institute civil lawsuits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The Tax Administrator is authorized to waive penalties and interest and compromise tax liability, and shall have the right to accept waiver of state statutes of limitations.

(Ord. 94-10. Passed 3-28-94.)

#### 181.15 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of one and one half percent (1.5%) per month or fraction thereof, and the taxpayers upon whom such taxes are imposed by this chapter shall be liable in addition thereto, to a penalty of ten percent (10%) of the amount of the unpaid tax.

(b) A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Administrator, provided 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 final determination of the federal tax liability.

(c) Any person who fails, neglects or refuses to make any return or declaration required by this chapter shall be subject to the levy and imposition of a twenty-five dollar (\$25.00) fee for failure and neglect or refusal to file in addition to any interest, penalty or assessment provisions that may be imposed, at the option and discretion of the City.

(Ord. 94-10. Passed 3-28-94.)

#### 181.16 VIOLATIONS; PENALTIES.

(a) Any person subject to the provisions of this chapter who shall fail, neglect or refuse to make any return or declaration, or any employer who shall fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter or any taxpayer who shall fail, neglect or refuse to pay the tax, interest and penalties imposed by this chapter, or any person who shall refuse to permit the Tax Administrator or his duly authorized agent or employee to



examine the books, records and papers of a taxpayer, or any person who shall knowingly make an incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax under this chapter shall be deemed guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for this first offense, and for a second or subsequent offense shall be guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days or both. The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse him from making a return or declaration or paying the tax levied under this chapter.

(b) When a corporation or any organization other than a natural person is convicted of an offense pursuant to this chapter, it shall be fined not more than one thousand dollars (\$1,000) for the first offense and shall be fined not more than five thousand dollars (\$5,000) for a second or subsequent offense.

(c) An officer, agent or employee of a corporation or other organization may be prosecuted for an offense committed by such corporation or other organization if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

(1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility.

(2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(d) When a person is convicted of an offense under any of the conditions of subsection (c)(1) or (2) hereof, he is subject to the same penalty as if he had acted in his own behalf.

(Ord. 94-10. Passed 3-28-94.)

#### 181.17 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying a tax upon the following:

(a) Funds received from local, State or Federal governments because of service in the Armed Forces of the United States by the person rendering such service or as a result of another person rendering such service;

(b) Poor relief, old age pensions or similar payments, including unemployment or disability benefits received from local, State or Federal governments, or charitable religious or educational organizations;

(c) Pensions, disability benefits or annuities from whatever source derived;

(d) Dues, contributions and similar payments received by charitable, religious or educational organizations, or by labor unions, trade associations, lodges and similar organizations;

(e) Receipts from casual sales and seasonal or casual entertainment, amusements and sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations; or

(f) Personal earnings of any natural person under eighteen years of age.  
(Ord. 94-10. Passed 3-28-93.)

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

Every individual taxpayer who resides in the City but who received net profits, salaries, wages, commissions, rents or other compensation for work done or services performed or rendered outside of the City, if it is made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, salaries, wages, commissions, rents or compensation in another municipality, shall be allowed a credit for the amount so paid by him or in his behalf in the other municipality. This credit shall be applied only to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions, rents or other compensation earned in the other municipality where the tax is paid.

(Ord. 94-10. Passed 3-28-93.)

#### 181.19 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless it contains the following provision:

"Said \_\_\_\_\_ hereby further agrees to withhold all City income tax due or payable under the provisions of Chapter 181, Income Tax, of the Codified Ordinances of the City of Hilliard, Ohio, for wages salaries and commissions paid to its employees and further agrees that any of its contractors shall be required to agree to withhold any such City income taxes due under said Chapter for services performed under this contract."

(Ord. 94-10. Passed 3-28-94.)

## 181.20 ALLOCATION OF FUNDS.

EDITOR'S NOTE: The funds collected by the City in fiscal year 2010 under the provisions of Chapter 181 of the Codified Ordinances shall be allocated as follows:

- (1) Seventy-one percent (71%) of the tax revenues shall be transferred to the General Fund.
- (2) Twenty-five percent (25%) of the tax revenues shall be transferred to the Capital Improvement Tax Fund.
- (3) Four percent (4%) of the tax revenues shall be transferred to the Street Improvement Tax Fund.

The allocations established above shall be effective only for those income tax revenues received through the end of fiscal year 2010, at which time the allocations set forth in Section 181.20 of the Codified Ordinances shall be reinstated, unless otherwise changed by City Council in the manner provided therein. (Res. 09-R-45. Passed 12-21-09.)

(a) The funds collected under the provision of this chapter shall be deposited in the Tax Deposited Agency Fund, and such funds shall then be transferred in the following manner:

- (1) Sixty two and one-half percent (62.5%) of the tax revenues shall be transferred to the General Fund.
- (2) Twenty-five percent (25%) of the tax revenues shall be transferred to the Capital Improvement Tax Fund.
- (3) Twelve and one-half percent (12.5%) of the tax revenues shall be transferred to the Street Improvement Tax Fund.

(b) When City Council determines that the allocations in subsection (a) are insufficient to avoid major disruptions to City services, City Council may amend the allocations by Resolution upon a positive vote of two-thirds of the members of City Council. Any such change to the allocation shall be made only in conjunction with approval of an annual appropriation budget and only after good cause for the change is stated upon the record of City Council proceedings. City Council shall take into account the City's existing debt service obligations before amending the allocations. In any year immediately following a change, the allocations shall revert back to the allocations set forth in subsection (a) which shall remain in place unless subsequently changed by City Council in the manner established herein.

(Ord. 08-83. Passed 12-22-08.)

## 181.21 SAVING CLAUSE.

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. 94-10. Passed 3-28-94.)

## 181.22 BOARD OF APPEALS.

### (a) Establishment and Membership.

(1) There is hereby established, in and for the City, a Board of Tax Appeals, consisting of three volunteer members. The Mayor with the advice and consent of Council, shall appoint three members to this board. All members must have general knowledge or be sufficiently versed on municipal tax related issues. The Board shall keep its office at the City of Hilliard Municipal Office.

(2) Terms of office shall be for three years, commencing on the first day of January and ending on the thirty-first of December.

### (b) Organization And Procedures.

(1) A majority of the members of the Board shall constitute a quorum.

(2) The Board shall adopt its own procedural rules and shall keep a record of its transactions; these transactions are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Any hearings requested by a taxpayer before the Board are not meetings of public body subject to Section 121.22 of the Ohio Revised Code.

(3) The Board has all powers promulgated under the City of Hilliard Tax Ordinance in order to carry out the performance of the Board's duties including the right to inspect books, accounts, records federal tax returns and appoint necessary agents.

### (c) Purpose And Duties.

(1) Whenever a Tax Administrator issues a decision regarding a City of Hilliard income tax obligation that is subject to appeal as provided in this section or in an ordinance or regulation of the City of Hilliard, the Tax Administrator shall notify the taxpayer. At the same time of the Tax Administrator must inform the

taxpayer their right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(2) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the City of Hilliard the required returns or other documents pertaining to the City of Hilliard income tax obligation, may appeal the decision to the Board created pursuant to this section, by filing a request with the Board. The request shall be in writing, shall state with specificity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Administrator issues the decision complained of.

(3) The Board shall schedule a hearing within forty-five 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 represent himself, or be represented by an attorney at law, certified public accountant, or other representative.

(4) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a written decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

(Ord. 00-95. Passed 1-8-01.)