

CHAPTER 183
Income Tax Ordinance

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CROSS REFERENCES

Bond of City Income Tax Director - see ADM. 165.10
Income tax regulations - see ADM. Ch. 181

183.01 DEFINITIONS.

As used in this chapter the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning:

- (a) "Taxpayer" means a person whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.
- (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, limited partnership, corporation, association or any other entity.
- (d) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency.

- (e) "Employee" means an individual whose earnings are subject to the withholdings of Federal income tax or Social Security Tax.
- (f) "Employer" means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Net profits" means the net gain from the operation of a business, profession or enterprise after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deduction of Federal taxes based on income, and without deducting taxes imposed by this chapter.
- (h) "Nonresident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the City.
- (i) "Person" means every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- (j) "Resident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the City.
- (k) "Other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the City.

The singular shall include the plural and the masculine shall include the feminine and the neuter. (Ord. 1973-46. Passed 9-4-73.)

183.02 IMPOSITION OF TAX.

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements of the City there be, and hereby is levied a tax upon the earnings at the rate of two percent (2%) upon the following:

- (a) All salaries, wages, commissions and other compensation earned on and after October 1, 1973, by resident individuals.
- (b) All salaries, wages, commissions and other compensation earned on and after October 1, 1973, by nonresident individuals for work done or services performed or rendered in the City.
- (c) The net profits attributable to the City earned on and after October 1, 1973, of all resident unincorporated businesses, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the City.
- (d) The portion of the distributive share of the net profits earned on and after October 1, 1973, of a resident individual, partner or owner of a resident unincorporated business entity attributable to the City and not levied against such unincorporated business entity.

- (e) The net profits attributable to the City, earned on and after October 1, 1973, of all nonresident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City.
 - (f) The portion of the distributive share of the net profits earned on and after October 1, 1973, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.
 - (g) The net profits earned on and after October 1, 1973, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City.
 - (h) The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City shall be determined as provided in Ohio R. C. 718.02 and in accordance with the rules and regulations adopted by Council pursuant to this chapter.
- (Ord. 1973-46. Passed 9-4-73 ; Ord. 1991-78. Passed 8-8-91; Res. 1995-59. Passed 12-27-95.)

183.03 DETERMINATION OF INCOME SUBJECT TO TAX.

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

- (1) The average net book value of 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 the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

- (2) Wages, salaries and other compensation paid during the taxable period to persons employed 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.

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

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- (b) As used in subsection (a) hereof "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 such 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 such 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 such 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. 1973-46. Passed 9-4-73.)

183.04 EFFECTIVE DATE.

The tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after October 1, 1973, and with respect to the net profit of businesses, professions and other activities earned on and after October 1, 1973. However, 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 profit for the fiscal year as shall be earned on and after October 1, 1973, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.
(Ord. 1973-46. Passed 9-4-73.)

183.05 RECIPROCITY PROVISION: CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(a) Every individual taxpayer who resides in the City but who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the City, if it be made to appear that he has paid income tax on such net profits, salaries, wages, commissions or other compensation to another state, municipality or political subdivision, on the same income, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other state, municipality or political subdivision. The credit shall not exceed the tax assessed by this chapter on such net profit, salary, wages, commissions or compensation earned in such other state, municipality or political subdivision where such tax is paid.

(b) The credit provision of this section applies only to residents. Nonresidents who receive net profits, salaries, wages, commissions or other compensation for work done, or services performed or rendered within the City, and subject to the tax imposed by this chapter shall not be allowed a credit for any income tax paid to another City, political subdivision or state.

(c) No credit shall be allowed against City income tax for State income taxes paid.
(Ord. 1973-46. Passed 9-4-73.)

183.06 ADMINISTRATION; DUTIES OF THE CITY INCOME TAX DIRECTOR AND THE CITY TREASURER.

(a) The Department of Income Tax shall be administered by the City Income Tax Director, who shall be appointed by the Mayor and shall serve until his successor is appointed and qualified.

(b) It shall be the duty of the City Treasurer to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received. All cashiers handling tax moneys shall be subject directly to the City Treasurer and shall give daily accountings to the City Treasurer.

(c) It shall be the duty of the City Income Tax Director to enforce payment of all taxes owing the City to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(d) The City Income Tax Director is hereby charged with the enforcement of the provisions of this chapter and to enforce the rules and regulations of Council of the City, relating to any matter or thing pertaining to the collection of City income taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments.

(e) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the City Income Tax Director may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(f) Subject to the consent of the Board of Review or pursuant to regulations approved by Council, the City Income Tax Director shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

(g) Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by Council and shall receive such salary as may be determined by Council. The City Income Tax Director shall recommend all appointments of personnel and purchase all equipment, supplies and material for the Department of Taxation subject to the approval of Council. The Department of Taxation shall be charged with the administration and operation of this chapter under the direction of the City Income Tax Director. The City Income Tax Director shall prescribe the form and method of accounts and reports for such Department, as well as the forms for taxpayers' returns and declarations, and shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of such receipt. The City Income Tax Director shall also make written report to Council quarterly and annually of all moneys collected hereunder during the preceding year. (Ord. 1973-46. Passed 9-4-73.)

183.07 INVESTIGATIVE POWERS OF THE CITY INCOME TAX DIRECTOR.

(a) The City Income Tax Director or his duly authorized agent or employee is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, or believed to be subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the City Income Tax Director or his duly authorized agent or employee, within thirty days following a written request by the City Income Tax Director or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

(b) The City Income Tax Director or his duly authorized agent or employee is hereby authorized to examine any person, employer or employee under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, Federal income tax records, papers and records and the attendance of all persons before him, whether as parties or witnesses, wherever he believes such persons have knowledge of such income.

(c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax by any officer, agent or employee if a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with any order or subpoena of the City Income Tax Director authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 183.99 hereof.

(d) Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City for official purposes.

(e) Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes and except in accordance with proper judicial order.
(Ord. 1973-46. Passed 9-4-73.)

183.08 INTEREST AND PENALTIES.

All taxes imposed by this chapter including taxes withheld or required to be withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of nine percent (9%) per year, and the taxpayers upon whom such taxes are imposed and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter shall be liable, in addition thereto, to a penalty of five percent (5%) of the amount of unpaid tax or ten dollars (\$10.00), whichever is greater.
(Ord. 1990-43. Passed 6-28-90.)

183.09 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the Village Income Tax Revenue Fund, and such funds collected for the period of October 1, 1973, and indefinitely thereafter, shall be disbursed at intervals not to exceed one year intervals determined by the Village Treasurer, in the following order to wit:

- (a) Such part thereof as shall be deemed necessary to administer refunds in the collection procedure.
 - (b) The net available income tax receipts from the original one percent income tax shall be transferred to the General Fund for defraying operating expenses of the Village, including those of the Income Tax Collections Office.
 - (c) The net available income tax receipts from the additional one percent income tax shall be transferred as follows:

(1)	General Fund	21%
(2)	Garbage & Rubbish	18%
(3)	Street Repair Fund	17%
(4)	Capital Improvement Fund	15%
(5)	Recreation Fund	10%
(6)	Community Complex Fund	5%
(7)	Senior Citizens Fund	4%
(8)	Fire Equipment, Maintenance & Repair Fund	3%
(9)	Police Equipment, Maintenance & Repair Fund	3%
(10)	Police & Drug Enforcement Fund	2%
(11)	Community Development Fund	2%
- (Ord. 2006-02. Passed 2-13-06.)

183.10 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the City, one to be appointed by the Mayor, one to be appointed by the City Treasurer, and the third to be selected by the two so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

(b) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(c) All hearings of the Board shall be conducted privately and the provisions of Section 183.07 with reference to the confidential character of information required to be disclosed by this chapter and Chapter 181 shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Any person dissatisfied with any ruling or decision of the City Income Tax Director which is made under the authority conferred by this chapter and Chapter 181 may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the City Income Tax Director and the Board of Review shall,

on hearing, have jurisdiction to affirm reverse or modify any such ruling or decision, or any part thereof.

(e) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision.

(f) The Board of Review, as created, shall serve during the life of this chapter.
(Ord. 1973-46. Passed 9-4-73.)

183.11 APPLICABILITY.

This chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for.
(Ord. 1973-46. Passed 9-4-73.)

183.12 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 person rendering such service, or as a result of another person rendering such service.
- (b) Poor relief, pensions, social security, unemployment compensation and disability benefits received from private industry or local, State or Federal governments, or from charitable, religious or educational organizations.
- (c) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.
- (d) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.
- (e) Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc., purposes.
- (f) Gains from involuntary conversions, cancellations or indebtedness, interest on Federal obligations, and income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (g) Earnings and income of all persons under eighteen years of age, whether residents or nonresidents. (Ord. 1973-46. Passed 9-4-73.)

183.13 REFUNDS.

Should it appear that any taxpayer has paid more than the amount of the tax to which the City is entitled under the provisions of this chapter a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the City Income Tax Director.

All applications for refunds shall be made within three years of the due date of a final return.

No refunds will be made for an amount less than one dollar (\$1.00).
(Ord. 1973-46. Passed 9-4-73.)

183.14 EFFECTIVE PERIOD.

(a) The renewal of the additional one percent shall be imposed for a five year period from January 1, 2007 through December 31, 2012 to be divided as follows:

(1)	General Fund	21%
(2)	Garbage & Rubbish Fund	18%
(3)	Street Repair Fund	17%
(4)	Capital Improvement Fund	15%
(5)	Recreation Fund	10%
(6)	Community Complex Fund	5%
(7)	Senior Citizens Fund	4%
(8)	Fire Equipment, Maintenance & Repair Fund	3%
(9)	Police Equipment, Maintenance & Repair Fund	3%
(10)	Police & Drug Prevention Fund	2%
(11)	Community Development Fund	2%

(Ord. 2006-02. Passed 2-13-06.)

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in this chapter as though the same were continuing.

183.99 VIOLATIONS; PENALTY.

(a) The following shall be considered violations of this chapter:

- (1) Failing, neglecting or refusing to make any return or declaration required by this chapter; or
- (2) Making any incomplete, false or fraudulent return; or
- (3) Failing, neglecting or refusing to pay the tax, penalties or interest imposed by this chapter; or
- (4) Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the City Income Tax Director; or
- (5) Refusing to permit the City Income Tax Director or any duly authorized agent or employee to examine books, records and papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Failing to appear before the City Income Tax Director and to produce books, records, Federal income tax returns and papers relating to the income or net profits of a taxpayer under order or subpoena of the City Income Tax Director; or
- (7) Refusing to disclose to the City Income Tax Director any information with respect to the income or net profits of a taxpayer; or
- (8) Failing to comply with the provisions of this chapter or any order or subpoena of the City Income Tax Director authorized hereby; or
- (9) Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Any person who violates any provision of this section shall be fined not more than five hundred dollars (\$500.00) for each offense.

(c) The failure of any employer or 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) Any person divulging confidential information in violation of Section 183.07 shall be fined 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 any employee of the City who violations the provisions of Section 183.07 shall be immediately dismissed from the service of the City. (Ord. 1973-46. Passed 9-4-73.)