

ORDINANCE NO. 3007

AN ORDINANCE REPEALING OXFORD CODE OF ORDINANCES SECTION 181.10 AND ADOPTING NEW OXFORD CODE OF ORDINANCES SECTION 181.10; INCLUDING NEW SUBSECTION (e).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OXFORD, BUTLER COUNTY, STATE OF OHIO, THAT:

SECTION 1: the addition of new subsection (e) to Oxford Code of Ordinances Section 181.10 Interest and Penalties, a clear and definable benchmark is established in placing a cap on the Tax Administrator's ability to waive penalty and interest; and

SECTION 2: with the addition of new subsection (e) to Oxford Code of Ordinances Section 181.10 Interest and Penalties, the taxpayer still has the ability to plead their case in front of the Income Tax Board of Review.

SECTION 3: SECTION 181.10 ENTITLED "INTEREST AND PENALTIES" IS HEREBY REPEALED AND NEW SECTION 181.10 ENTITLED "INTEREST AND PENALTIES" IS HEREBY ADOPTED AS FOLLOWS (language to be adopted is in bold):

181.10 INTEREST AND PENALTIES.

(a) Interest. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid after they have become due shall bear interest at the same rate which ORC Section 718.12, requires be paid by municipalities on their income tax refunds, i.e., the Federal short-term rate as defined in ORC Section 5703.47, plus one and one half percent (1 ½ %) per year.

(b) Penalties. In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld: One and one-half percent (1 ½%) per month or fraction thereof,

(2) For failure to remit taxes withheld or required to be withheld from employees: Three percent (3%) per month or fraction thereof,

(3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, fifty dollars (\$50.00).

(4) 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 tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and pay the total tax on or before the end of the month following the end of his 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 or declaration.

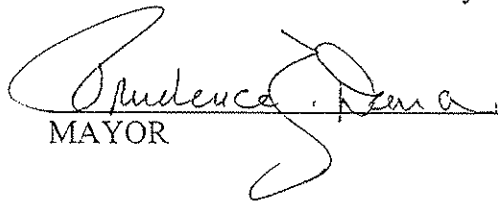
(5) Except in the case of fraud, the penalty shall not exceed one hundred percent (100%) of the unpaid tax.

(c) Exceptions. 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; 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 (3) months after the final determination of the Federal tax liability.

(d) Waiver for First Time Violators. Compute penalties for a first violation shall not be assessed. However, notification to the taxpayer for the first time violation will be made.

(e) Abatement of Penalty and Interest. At the Tax Administrator's discretion, the Tax Administrator may abate up to \$1,000 of penalty or interest, or both. Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

SECTION 4: This Ordinance shall take effect at the earliest time allowed by law.


MAYOR

ADOPTED: July 15, 2008

ATTEST:


DEPUTY CLERK OF OXFORD CITY COUNCIL

INTRODUCED BY: KEN BOGARD

PREPARED BY: LAW (STAFF)

CHAPTER 181
Income Tax

EDITOR'S NOTE: Resolution 4255, passed May 15, 2007, authorizes the City Manager to contract with The Regional Income Tax Agency, relative to the collection of the Oxford Income Tax.

- 181.01 Purpose.
- 181.02 Definition.
- 181.03 Imposition of tax.
- 181.04 Effective period.
- 181.05 Return and payment of tax.
- 181.06 Collection at source.
- 181.07 Declarations.
- 181.08 Duties of the Tax Administrator.
- 181.09 Investigative powers of the Tax Administrator; penalty for divulging confidential information.
- 181.10 Interest and penalties.
- 181.11 Collection of unpaid taxes and refunds of overpayments.
- 181.12 Violations and penalties.
- 181.13 Board of Review.
- 181.14 Credit for tax paid another municipality.
- 181.15 Allocation of funds.
- 181.16 Reserved.
- 181.17 Requirements for Joint Economic Development Districts.
- 181.18 Savings clause.

CROSS REFERENCES

Power to levy - see Ohio Const. Article XVIII, 3

Payroll deductions - see Ohio R.C. 9.42

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

181.01 PURPOSE.

To provide funds for the purposes of general municipal operations, procurement of capital assets, to make capital improvements, payment of debt obligations, and for all other lawful purposes, there shall be, and is hereby levied a tax on qualifying gross income as defined in this Chapter, on earned income, net profits, and on all other taxable income, as hereinafter provided.

(Ord. 2957. Passed 5-1-07.)

181.02 DEFINITIONS.

(a) 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.

(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 was a “C” corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2007.

(2) “Administrative Rulings” means the rulings issued by the Tax Administrator, upon the request of a taxpayer or employer, interpreting this Chapter and the Rules and Regulations. Administrative Rulings shall be binding and effective upon issuance as to the taxpayer or employer requesting the ruling.

(3) “Administrator” means the person designated to administer and enforce the provisions of the City of Oxford Income Tax Ordinance, who also may be referred to in this Chapter as the “Tax Administrator.”

(4) “Association” means a partnership, limited partnership, limited liability company, limited liability partnership, Subchapter S corporation (“S” corporation) as defined in the Internal Revenue Code, or any other form of unincorporated enterprise, taxed on a pass-through basis under the Internal Revenue Code. The terms “association”, “pass-through entity,” and “unincorporated business entity” are synonymous for purposes of this Chapter and the Rules and Regulations.

(5) “Board of Review” means the Board created by and constituted as provided in Section 181.13.

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

- (7) “City” means the City of Oxford, Butler County, Ohio.
- (8) “Commissioner” means the person designated by the Tax Administrator and appointed by the City Manager to direct the operation of the Municipal Income Tax Division.
- (9) “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 or foreign country or dependency, or any unincorporated entity treated as a corporation for federal income tax purposes. “Corporation” also includes a combined company, an electric company and a telephone company, as defined in ORC Section 5727.01.
- (10) “Domicile” means a principal residence that the taxpayer intends to use for an indefinite period of time and to which whenever he is absent he intends to return. A “Domicile” is the permanent legal residence of a taxpayer. A taxpayer has only one domicile even though he may have more than one residence.
- (11) “Employee” means one who works for qualifying wages, salary, commission or any other type of compensation in the service of an employer.
- (12) “Employer” means a individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employees one or more persons on a qualifying wage, salary, commission or other compensation basis.
- (13) “Fiscal year” means an accounting period of twelve months or less ending on any day other than December 31.
- (14) “Form 2106” means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (15) “Generic form” means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income.
- (16) “Gross receipts” means the total income from any source whatsoever.
- (17) “Gross income” means all monies derived from any source whatsoever, including, but not limited to:

A. All salaries, qualifying wages, commissions, other compensation, and other income from whatsoever source received by residents of the City.

B. All salaries, qualifying wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the City.

C. The portion attributable to Oxford of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the City.

(18) "Income from a pass-through entity" means partnership income or partners, distributive shares of shareholders of an S corporation, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of other pass-through entities.

(19) "Intangible income" means that income specified in ORC Section 718.01(A)(5) including any of the following types of income: 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 ORC 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, attributable to or derived from any lottery winnings or other similar games of chance.

(20) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.1, as amended. The Internal Revenue Code is often abbreviated IRC.

(21) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the World Wide Web.

(22) "Joint Economic Development District" means districts created under the ORC Sections 715.70 and 715.71, as amended from time to time.

(23) "Limited liability company" means a limited liability company formed under ORC Chapter 1705 or under the laws of another state.

(24) "Municipality" means the City of Oxford, Butler County, Ohio.

(25) "Net profits" means:

A. If the taxpayer is a corporation, the corporation's "adjusted federal taxable income" as that term is defined in ORC Sections 718.01(A)(1)(a)-(f);

B. If the taxpayer is an "association," "pass-through entity," or "unincorporated business entity," "adjusted federal taxable income" as that term is defined in ORC Section 718.01(A)(1)(g); and

C. If the taxpayer is an individual, the individual's profit, other than amounts specifically excluded in ORC Section 718.01(F), required to be reported on federal Schedule C, Schedule E, or Schedule F, as provided by the Internal Revenue Service.

(26) "Nonresident" means an individual domiciled outside the City of Oxford, Ohio.

(27) "Nonresident owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the City or a corporation that has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the City.

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

(29) "Ohio Revised Code" means the codified statutes of the State of Ohio, as amended. Ohio Revised Code is often abbreviated ORC.

(30) "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.

(31) "Owner" means an individual, partner, member, or any other person having an ownership interest in an association, pass-through entity, or unincorporated business entity.

(32) "Pass-through entity" means a partnership, limited liability company, S corporation or any other type of entity the income or profits of which are given pass-through treatment under the Internal Revenue Code. Income from a pass-through entity" includes partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

(33) “Person” means every natural person, partnership, fiduciary, association, or corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any association, pass-through entity and unincorporated business entity shall include the partners or members thereof, and as applied to corporations, the officers thereof.

(34) “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 regular employees regularly in attendance.

(35) “Principal place of business” means, in the case of an employer having its 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 within a taxing municipality.

(36) “Qualified plan” means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.

(37) “Qualifying wages” means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as provided in division (A)(2) of ORC Section 718.03. “Qualifying wages” includes compensation attributable to a nonqualified deferred compensation plan or program as defined in Section 3121 9v)(2)(C) of the Internal Revenue Code (IRC) and compensation arising from the sale, exchange or other disposition of stock purchased by the stock option. “Qualifying wages” does not include compensation deferred before January 1, 2004, to the extent that the deferred compensation does not constitute “qualifying wages” when paid or distributed.

(38) “Resident” means:

A. An individual, partnership, association, corporation or other entity domiciled in this City; or

B. The estate of a decedent who at the time of such decedent’s death was domiciled in this City.

(39) “Resident owner” means an individual domiciled in the City who has an interest in an association, pass-through entity, or unincorporated business entity.

(40) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the City.

(41) “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.

(42) “Rules and regulations” mean the Rules and Regulations promulgated by the Tax Administrator and approved by the Board of Review.

(43) “Schedule C” means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(44) “Schedule E” means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(45) “Schedule F” means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(46) “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.

(47) “State” means State of Ohio.

(48) “Taxable income” is Gross Income minus deductions and credits allowed by this Chapter. “Taxable Income” includes any and all income earned or received by an individual or an entity, the taxation of which by the City is not prohibited by federal law, state law, or not specifically exempted by Section 181.03(e) of this Chapter. “Taxable Income shall include, but is not limited to qualifying wages, salaries, lottery winnings and other winnings from any and all types of gambling as well as compensation earned by an employee before any deduction and/or the net profits from the operation of a business, profession, or other enterprise or any activity.

(49) “Taxable Situs” means that portion of a taxpayer’s net profits attributable to the City where the taxpayer conducts a business or profession both within and without the City, determined in accordance with ORC Section 718.02.

(50) “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 return for a fractional part of a year, the period for which such return is required to be made.

(51) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality and or on income earned by its residents.

(52) "Taxpayer" means a person, whether an individual, partnership, association or corporation or other entity, required by this Chapter to file a return or pay a tax.

(53) "Tenant" means the person or persons who sign a written lease, rental agreement or enter into an oral contract with the owner or owner representative to occupy and creates a domicile within the City.

(54) "Unincorporated Business Entity" means either an "association," "pass-through entity" or "corporation," determined by the treatment afforded such entity for federal income tax purposes.

(b) 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. 2957. Passed 5-1-07.)

181.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to the provisions of Section 181.14, an annual tax for the purposes specified in Section 181.04 shall be imposed on and after January 1, 1994, at the rate of one and three quarters (1 $\frac{3}{4}$ %) per annum: Such tax shall be imposed upon all taxable income as follows:

(1) Resident Individuals. On all qualifying wages, net profits, other activities and other taxable income earned and/or received during the effective period of this Chapter by residents of the City;

(2) Non-Resident Individuals. On all qualifying wages, earned and/or received during the effective period of this Chapter by nonresidents of the City for work done or services performed or rendered within the City or attributable to the City; on all net profits earned/or received by a nonresident from the operation or conduct of any business or profession within the City; other activities and on all other taxable income earned and/or received by a nonresident derived from or attributable to sources, events or transactions within the City;

A. Effective January 1, 2001, Oxford shall not tax the compensation paid to a non-resident individual for personal services or work performed by the individual in the City on twelve (12) or fewer days in a calendar year (which hereby classifies the individual as an "occasional entrant") unless one of the following applies:

1. The individual is the employee of another person, the principal place of business in which the employee normally works is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days, and individual is not liable to the other municipal corporation for tax on the compensation paid for such services.

2. The individual is a professional athlete, professional coach at the collegiate or professional level, professional athletic trainer at the collegiate or professional level, athletic administrator at the collegiate or professional level, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City.

B. For purposes of the 12-day calculation, any portion of a day worked in Oxford shall be counted as one day worked in Oxford.

C. Beginning with the thirteenth day, the employer of said individual shall begin withholding Oxford income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to Oxford in accordance with Section 181.06 of the income tax ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in Oxford by the individual for the first twelve (12) days. If the individual is self-employed or an independent contractor, it shall be the responsibility of the individual to remit the appropriate income tax to the City.

(3) Resident Unincorporated Businesses.

A. On the portion attributable to the City of Oxford of the net profits earned and/or received during the effective period of this Chapter of all residents associations, pass-through entities or other unincorporated businesses entities treated as a pass-through entity for federal income tax purposes or professions or other activities derived from sales made, work done, or services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City;

B. On the portion of the distributive share of the net profits earned and/or received during the effective period of this Chapter of a resident partner or owner of a resident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied;

(4) Non-Resident Unincorporated Businesses.

A. On the portion attributable to the City of the net profits earned and/or received during the effective period of this Chapter of all non-resident associations, pass-through entities or other unincorporated businesses entities treated as a pass-through entity for federal income tax purposes, professions or other activities, derived from sales made, work done or services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City, whether or not such association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes has an office or place of business in the City.

B. On the portion of the distributive share of the net profits earned and/or received during the effective period of this Chapter of a resident partner or owner of a non-resident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied, from wherever such business is located;

(5) Corporations. On the portion attributable to the City of the net profits earned and/or received during the effective period of this Chapter of all corporations and all other entities and business activities not defined herein as associations, pass-through entity or unincorporated business entity treated as a pass-through entity for federal income tax purposes derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, and/or derived from sales made, work done, services performed or rendered, and business, or other activities attributable to the City, whether or not such corporations, entities or business activities have an office or place of business in the City.

(6) Electric Companies. On the net profits of an electric company, combined company or telephone company apportioned and attributable to the City in accordance with Section 718.01(F)(6) and Chapter 5745 of the Ohio Revised Code.

(7) Gambling Activities. On income in excess of six hundred dollars (\$600.00) that is derived from prizes, awards, gaming, wagering, lotteries or other similar games of chance by a resident or non-resident who earned and/or received such income within the City from whatever source and from anywhere derived including but not limited the sale of lottery tickets or other gambling activity conducted within the city.

(8) Miscellaneous Taxable Income. On all income earned and/or received from covenants not to compete or similar agreements to the extent reported on a taxpayer's federal income tax return.

(9) Fiduciary Activities. On all guardian, executor, conservator, trustee or administrator fees earned and/or received by a taxpayer in connection with the operation or conduct of a business or profession.

(10) S Corporations (after January 1, 2004).

A. For taxable years beginning on or after January 1, 2004, the net profits from a business or profession shall be taxed only to the extent of the taxpayer's adjusted federal taxable income except that nothing shall be construed as limiting the ability of the Tax Administrator to administer, audit, or enforce the provisions of this Chapter including making all necessary adjustments and allocations to adjusted federal taxable income to produce a fair and proper allocation of net profits to the City.

B. Subsection (10)A. of this Section shall not apply to any taxpayer required to file a return under Section 5745.03 of the Ohio Revised Code or to the net profits from a sole proprietorship.

(11) Sole Proprietorships (after January 1, 2004). For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, or in the case of a taxpayer who has a net profit from a business and the taxpayer is an individual, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having taxable situs in the City, an amount other than the net profit required to be reported on Internal Revenue Service Schedules C or F from such sole proprietorship for the taxable year; and

(12) Rental Activities. For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from rental activity required to be reported on Internal Revenue Service Schedule E, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the City, an amount other than the net profit from rental activities required to be reported by the taxpayer on Schedule E for the taxable year.

(b) Businesses both In and Outside the City Boundaries. Where a person conducts a business both within and outside the City, the portion of the entire net profits of such business are to be allocated as having been made within the City as may be determined from the records of such business, if such business had bona fide records which disclose with reasonable accuracy what portion of its net profits are attributable to that part of its activities conducted within the City, or at the option of the taxpayer may be determined by the following formula, which shall be used if such taxpayer has no bona fide records showing net profits from business activities within the City, subject however to the provisions of subsection (d)(2) hereof and the Rules and Regulations as set forth in this Chapter.

(1) Multiply the entire net profits of the business by a business allocation percentage to be determined by:

A. Ascertaining the percentage which the average original cost of the real and tangible personal property owned or used in the business and situated within the City, during the period covered by the return, is of the average original cost of all the real and tangible personal property owned or used in the business, wherever situated, during such period.

B. Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the City, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.

C. Ascertaining the percentage which total qualifying wages, sales, commissions and other compensation paid, during the period covered by the return, to employees for services performed in the City is of the total qualifying wages, salaries, commissions and other compensation paid during such period to all employees within and outside the City, excluding compensation described in Section E.

D. Adding together the percentages determined in accordance with subsection (b)(1)A. – 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 such total.

1. A factor is applicable even through it may be allocable entirely in or outside the City.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors and methods calculated to effect a fair and proper allocation. Should the taxpayer object to or disagree with the Tax Administrator's decision, an appeal may be filed with the Board of Review which shall have the power to adjust, modify, or overrule such decision by the Tax Administrator.

(c) Net Operating Loss (NOL).

(1) The portion of a net operating loss sustained in any taxable year beginning with the year January 1, 1994, allocable to the City may be applied against the portion of the profit of succeeding tax years(s) allocable to the City, until exhausted, but in no event for more than three (3) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City,

(3) The Tax Administrator 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.

(5) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in subsection (1) and (2). 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 reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(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 year, 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. The provisions of the Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and qualifying wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations or labor unions, trade or professional associates, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest, or federal obligations and income of a descendant's estate during the period of administration, except such income as is from the operation of a business, which income is not excluded from this tax.

(5) Alimony received.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and members of their reserve components, including the Ohio National Guard (ORC Section 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in the ORC Section 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business locate both within and without the corporate limits of the City, it shall calculate its income allocable to the City under the method or methods provided above.

(12) If exempt for Federal income tax purposes, fellowship and scholarship grants are excluded from municipal income tax.

(13) The rental value of a home furnished to a religious advisor or leader as part of his compensation, or the rental allowance paid to a religious advisor or leader as part of his compensation, to the extent used by him to rent or provide a home pursuant to IRC Section 107.

(14) Compensation paid under ORC Section 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 may be subjected to taxation. The payer of such compensation is not required to withhold City tax from that compensation.

(15) Compensation paid to an employee of the transit authority. Regional transit authority, or a regional transit commission created under ORC Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through the City, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the City, or the headquarters of the authority or commission is located within the City.

(16) The City shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the City 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 a professional entertainer or professional athlete, the promoter of professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the City.

(17) The income of a public utility when that public utility is subject to the tax levied under ORC Section 5727.24 or 5727.30, except starting January 1, 2002, the income of an electric company or combined company, as defined in ORC Section 5727.01, shall be taxed by a municipal corporation subject to ORC Chapter 5745.

(18) An S Corporation shareholder's distributive share of net profits of the S corporation to the extent such distributive shares are allocated or apportioned to sources outside the State of Ohio other than any portion of the distributive shares of net profits that represents qualifying wages as defined in IRC Section 1402(a).

(19) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(20) On or about January 1, 2003, items excluded from Federal Gross Income pursuant to Section 107 of the IRC.
(Ord. 2957. Passed 5-1-07.)

181.04 EFFECTIVE PERIOD.

The City income tax shall be levied, imposed, collected and paid, on any and all qualifying wages, commissions and other compensation, and with respect to the net profits of businesses, professions and taxable income as provided in Section 181.03(a) of this Chapter, earned and/or received on or after January 1, 1994.

(Ord. 2957. Passed 5-1-07.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Filing Requirements. Each person who engages in business or other activity or whose qualifying wages, salaries, commissions or other compensation is subject to the tax imposed by this Tax Code, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this Tax Code, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteen day of the fourth month after the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of City tax deducted by such employer or employers from the salaries, qualifying wages, commissions or other compensation of an employee, and paid by him or them to the Tax Administrator may be accepted as the return required of any employee whose sole income, subject to tax under this Tax Code, is such salary, qualifying wages, commissions or other compensation.

(b) Universal Filing. On or before April 15th of each year, every resident subject to the provisions of this Chapter of the Codified Ordinances of the City of Oxford shall, except hereinafter provided, make and file acceptable with the Tax Administrator a City tax return on a form prescribed by and acceptable to the Tax Administrator, whether or not a tax is due. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteen day of the fourth month after the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers from the salaries, qualifying wages, commissions or other compensation of a nonresident employee, and paid by him or them to the Tax Administrator may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such salaries, qualifying wages, commissions or other compensation.

(c) Joint Filing Requirement. A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the city return regardless of whether their Federal and State returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(d) Form and Content of Return.

(1) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the City's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

(2) The return shall set forth:

A. The aggregate amounts of salaries, qualifying wages, commissions and other compensation earned and/or received, allocated or set aside, other income defined by statute as taxable, 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 such tax; and

B. The amount of tax imposed by this Tax Code on such earnings and profits; and

C. Such other pertinent statements, information returns, copies of Federal or State tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for Federal income tax adjusted to set forth only such income as is taxable under the provisions of this Chapter.

D. In accordance with ORC Section 718.051 and the Rules and Regulations, taxpayers subject to the city income tax on the net profits from a business or profession may file the city income tax return by using the Ohio Business Gateway.

(3) A return filed under this Section shall be timely if the return is postmarked no later than April 15.

(e) Extensions of Time for Filing Returns.

(1) Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of a City Income Tax Return by filing a copy of the taxpayer's Federal extension request with the City Tax Division. Any taxpayer not required to file a Federal income tax return may request an extension for filing a City Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the due date for filing a return is extended for six (6) months from the original due date of such return.

(2) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:

- A. Fails to timely file the request; or
- B. Fails to file a copy of the Federal extension request, (if applicable); or
- C. Owes the City any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
- D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

(3) The granting of an extension for filing a City tax return does not extend the due date as provided in this Section 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 181.03(a). No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition 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.

(f) Payment of Tax.

(1) 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. However, credit shall be allowed for:

- A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 181.06; and

B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 181.07; and

C. Credit to the extent allowed by Section 181.14 for tax paid to another municipality.

(2) Subject to the limitations contained in Section 181.11 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of the Tax Code may have such overpayment applied against any subsequent liability hereunder or, at this 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.

(g) Amended Returns.

(1) Where necessary, 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 an/or limitations contained in Sections 181.11 and 181.14. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or appointment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(h) Required Supplemental Information. 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 fourteen (14) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph. Examples of supplemental information includes but is not limited to copies of W-2 forms, 1099- MISC forms, page one of Form 1040, page one and two of Form 1120, 1120S(including (K-1), Form 2106, page one and two of Form 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, Schedule F and any other Federal Schedules if applicable.
(Ord. 2957. Passed 5-1-07.)

181.06 COLLECTION AT SOURCE.

(a) **Withholding by Employer.** Each employer within or doing business within the City who employs one or more persons on a salary, qualifying wage, commission or other compensation basis shall deduct, when such salary, qualifying wage, commission or other compensation is paid, allocated or set aside, the tax at the rate provided in Section 181.03 hereof on of the gross salaries, qualifying wages, commissions or other compensation due by such employer to the each employee; and shall, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. Returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator, and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the taxes have, in fact, been withheld.

(b) **Filings by Employers.** So long as the taxes withheld by an employer for the City during the measurement period as less than three hundred dollars (\$300.00) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Administrator. The Tax Administrator may revoke the approval of quarterly filing and payments whenever the Tax Administrator has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the City to do so. Notice of withdrawal shall be made in writing and, in such case; the employer must begin to file in accordance with this Section.

(c) **Employer Considered as Trustee.** Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the City, as a trustee for the benefit of the City, and any such tax collected by such employer from his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax to be deducted and withheld whether or not such tax, in fact has been withheld.

(d) **Individual Liability.** Any person who is required to withhold tax from salaries, qualifying wages, commissions, and other compensation shall pay such tax to the City in accordance with the provisions of this Section. In the event taxes withheld from the salaries, qualifying wages, commissions, and other compensation of employees are not paid to the City in accordance with the provisions of this Section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making the payment are jointly and severally personally liable for the tax not returned or paid to the City as well as any related interest and penalties, and are also liable under the provisions of Section 181.12 hereof. 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.

(e) List of Employees. 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 City tax was withheld, showing the name, address, and zip code of each such employee, the total amount of compensation paid during the year and the amount of City tax withheld. If the total tax 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 City 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.

(f) Contractors and Subcontractors. In addition to the qualifying wage reporting requirements of this Section, any person required by the Internal Revenue Service to report on Form 1099-MISC payments to individuals not treated as employees for services performed shall also report such payments to the City when the services were performed in the City. The information may be submitted on a listing, and shall include the name, address, and zip code (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.

(g) Domestic Servants. No person shall be required to withhold the tax on the qualifying 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.

(h) Electronic Funds Transfers.

(1) Except as otherwise provided in this subsection, the payment of taxes by electronic funds transfer does not affect an employer's obligation to file returns as required under this Section. The Tax Administrator may adopt rules governing the format for filing of returns under this Section by employers who remit undeposited taxes by electronic funds transfer.

(2) The Tax Administrator shall adopt rules governing the remittance of taxes by electronic funds transfer as provided for in this Section. The rules shall govern the modes of electronic funds transfer and under what circumstances each mode is acceptable, the content and format of electronic funds transfers, the coordination of payment of electronic funds transfer. The Tax Administrator may implement means of acknowledging, upon request of an employer, receipt of tax remittances made by electronic funds transfer, and may adopt rules governing acknowledgments. The cost of acknowledging receipt of electronic remittances shall be paid by the person requesting acknowledgement. (Ord. 2957. Passed 5-1-07.)

181.07 DECLARATIONS.

(a) Requirements for Filing. Every person who anticipates any taxable income which is not subject to Section 181.06, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if person's income is wholly from qualifying wages from which the tax will be withheld and/or remitted to this City in accordance with Sections 181.03, 181.05 and 181.06, such person need not file a declaration.

(b) Dates for Filing.

(1) Such declarations shall be filed on or before April 15 of each year during the life of this Chapter or on or before the fifteen day of the fourth month after the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteen day of the fourth month after the start of each fiscal year or period.

(c) Forms: Credit for Tax Withheld or Paid Another Community.

(1) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.14, credit may be taken for tax to be withheld and remitted to another taxing municipality.

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

(3) For taxpayers who are individuals, such declaration 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 seventh, tenth, and thirteenth months after the beginning of the taxable year.

(4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the 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 Declaration.

(1) A declaration may be amended at any time.

(2) In the event that 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.

(e) Annual Return Required. On or before the fifteenth day of the fourth month of the calendar or fiscal year, 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.
(Ord. 2957. Passed 5-1-07.)

181.08 DUTIES OF THE TAX ADMINISTRATOR.

(a) Collection and Maintenance Responsibility.

(1) It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Chapter in the manner prescribed therein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.

(2) It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the City, to keep accurate records for a minimum of six (6) 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.

(3) In the event the City Manager, on behalf of the City, enters into an agreement with any other entity to act as agent of the City for the purpose of administering the income tax laws of the City and of providing a central facility for the collection of the income tax then all or a part of the duties and authority of the Tax Administrator may be assigned by such agreement to such other entity.

(b) Enforcement Authority. The Tax Administrator is hereby charged with the enforcement of the provisions of this Chapter including the interpretation and enforcement of the Rules and Regulations, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Chapter, including provisions for the re- examination and correction of returns.

(c) Determination of Taxes. 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 Tax Administrator may determine the amount of tax appearing to be due the City from the taxpayer and may 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 a majority of the Board of Review, the Tax Administrator shall have the power to compromise any liability imposed by this Tax Code.

(e) Installment Payments. Upon the demonstration and documentation of good cause, the Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter and the Rules and Regulations.

(Ord. 2957. Passed 5-1-07.)

181.09 INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

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

(b) Appearance Orders to Taxpayers. The Tax Administrator or any authorized agent is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Administrator or at the office of a designated agent and to examine such person, under oath, concerning any income which was or should have been reported 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 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 Administrator or any designated agent authorized hereby shall be deemed a violation of this Chapter, punishable as provided in Section 181.12.

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

(e) Confidential Nature of Information. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Chapter shall be confidential and no person shall disclose such information, or except in accordance with proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State of Ohio Tax Commissioner.

(f) Penalty for Divulging Confidential Information. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of in five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

(g) Employee Discipline for Divulging Confidential Information. In addition to the above penalty, any employee of the City who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. (Ord. 2957. Passed 5-1-07.)

181.10 INTEREST AND PENALTIES.

(a) Interest. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid after they have become due shall bear interest at the same rate which ORC Section 718.12, requires be paid by municipalities on their income tax refunds, i.e., the Federal short-term rate as defined in ORC Section 5703.47, plus one and one half percent (1 ½ %) per year.

(b) Penalties. In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld: One and one-half percent (1 ½%) per month or fraction thereof,

(2) For failure to remit taxes withheld or required to be withheld from employees: Three percent (3%) per month or fraction thereof,

(3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, fifty dollars (\$50.00).

(4) 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 tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and pay the total tax on or before the end of the month following the end of his 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 or declaration.

(5) Except in the case of fraud, the penalty shall not exceed one hundred percent (100%) of the unpaid tax.

(c) Exceptions. 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; 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 (3) months after the final determination of the Federal tax liability.

(d) Waiver for First Time Violators. Compute penalties for a first violation shall not be assessed. However, notification to the taxpayer for the first time violation will be made.

(Ord. 2957. Passed 5-1-07.)

181.11 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. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the Federal tax liability.

(b) Time Limitations on Refunds. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later.

(c) Amount Limitations on Refunds. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

(d) Payment of Interest. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by ORC 5703.47. (Ord. 2957. Passed 5-1-07.)

181.12 VIOLATIONS AND PENALTIES.

(a) Any person who shall:

(1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or

(2) Knowingly make any incomplete, false, or fraudulent return; or

- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
- (5) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers, and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Tax Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (7) Refuse to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator authorized hereby; or
- (9) Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
- (10) Failure on the part of any employer to use ordinary diligence in maintaining proper tax records of employees' residence addresses, total qualifying wages paid and City tax withheld or to knowingly give the Tax Administrator false information; 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; or
- (12) The failure of the president and/or treasurer of any corporation that is required to withhold the tax from the qualifying wages of employees to cause all such taxes so withheld to be paid to the City as required by this Chapter; or
- (13) Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as require by Section 181.07. for which violation no penalty is otherwise provided, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) All prosecutions under this Section must be commenced within the time limitations provided in ORC 718.12.

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

(Ord. 2957. Passed 5-1-07.)

181.13 BOARD OF REVIEW.

(a) **Composition.** A Board of Review, consisting of three City residents appointed by the City Manager and approved by the Council, is hereby created. Board members shall be appointed for terms of three years; however, the members of the first Board shall be appointed for one, two and three years respectively. 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. Any hearing by the Board may be conducted privately and the provisions of Section 181.09 with reference to the confidential character of information required to be disclosed by this Chapter shall apply to such matters as may be heard before the Board on appeal.

(b) **Approval of Rules and Regulations.** All rules and regulations and amendments or changes thereto which are adopted by the Tax Administrator under the authority conferred by this Chapter must be approved by the Board before the same becomes effective. After such approval, such rules, regulations, amendments, and changes shall be filed with the Clerk of Council and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Administrator and, at the request of the taxpayer or Tax Administrator, is empowered to substitute alternate methods of allocation.

(c) **Administrative Rulings.** Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this Section, or in an ordinance or regulation of the Municipality, the Tax Administrator 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.

(d) **Appeals.** Any person dissatisfied with any ruling or decision of the Tax Administrator and who has filed with the City the required returns or other documents pertaining to the City income tax obligation at issue in the decision which is made under the authority conferred by this Chapter 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 thirty days from the announcement of such ruling or decision by the Tax Administrator.

(e) Restriction of Penalty and Interest. The imposition of penalty and interest as prescribed in the codified ordinance of the City is not a sole basis for an appeal.

(f) Hearings. 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 a hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(g) Decisions. The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. 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 the petitioner within fifteen (15) days after issuing the decision.

(h) Procedures. Each Board of Review created pursuant to this Section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under ORC Section 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 Section 121.22 of the Ohio Revised Code.
(Ord. 2957. Passed 5-1-07.)

181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a municipal income tax in another municipality, such resident shall not pay a total municipal income tax on the income taxed in the other municipality greater than a tax imposed at the higher of the applicable municipal tax rates.

(b) Every individual taxpayer who resides in the City who receives net profits, salaries, qualifying wages, commissions or other personal service compensation for work done or services performed or rendered outside of the City, if it appears that he has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit against the tax imposed by this Chapter of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) The City shall grant a credit against the tax imposed by this Chapter to every taxpayer who works in a joint economic development zone created under ORC Section 715.691 or a joint economic development district created under ORC Section 715.70, 715.71, 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) A claim for refund or credit under this Section shall be made in such manner as the Tax Administrator may provide by regulation.
(Ord. 2957. Passed 5-1-07.)

181.15 ALLOCATION OF FUNDS.

The funds collected pursuant to the provisions of this Chapter shall be allocated for the purposes provided in Section 181.01 after a public hearing to be held by Council at least annually.
(Ord. 2957. Passed 5-1-07.)

181.16 RESERVED.

181.17 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 City Council in an ordinance which either specifically approves a joint Economic Development District contract or specifically amends this Chapter.
(Ord. 2957. Passed 5-1-07.)

181.18 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 City Council to impose the tax herein provided for. Any individual or any of the several groups of persons, or forms of income specified herein is 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 City Council of the City that this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence or part thereof, not been included therein. (Ord. 2957. Passed 5-1-07.)