

**CITY OF NORTH OLMSTED  
ORDINANCE NO. 2015-104**

By: Mayor Kennedy

***AN ORDINANCE AMENDING CHAPTER FIFTEEN, TITLE ONE OF THE CODIFIED ORDINANCES OF THE CITY OF NORTH OLMSTED TITLED, "TAXATION CODE; MUNICIPAL INCOME TAX" IN ORDER TO IMPLEMENT REVISED STANDARDS REQUIRED BY THE OHIO LEGISLATURE, AND DECLARING AN EMERGENCY, AS AMENDED.***

**WHEREAS**, the Home Rule Amendment of the Ohio Constitution, Article XVII, Section 3, provides that "Municipalities shall have authority to exercise all powers of local self-government," and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

**WHEREAS**, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipality's power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes"; and

**WHEREAS**, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code (ORC), setting forth statutory requirements for municipal income tax codes in Ohio; and

**WHEREAS**, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in Chapter 718 of the ORC;" and

**WHEREAS**, upon a detailed review of H.B. 5 and the Codified Ordinances of the City of North Olmsted, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the ORC; and

**WHEREAS**, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be "levied in accordance with the provisions and limitations specified in Chapter 718" and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional;

**SECTION 1:** That Chapter 15, Title One of the Codified Ordinances, titled "Taxation Code; Municipal Income Tax" which presently reads in its entirety as set forth in Exhibit A, which is attached to this Ordinance and incorporated by reference as if fully rewritten herein, shall be amended and, as amended, shall read in its entirety as set forth in Exhibit B, which is likewise attached to this Ordinance and incorporated by reference as if fully rewritten herein.

**SECTION 2:** It is found and determined by the Council that this Ordinance is to have prospective application only. Salaries, wages, commissions and other compensation, together with net profits, or any other income subject to the North Olmsted municipal income tax and earned in and prior to the year 2015 shall be governed by Chapter 15, Title One of the Codified Ordinances, titled "Taxation Code; Municipal Income Tax" as it existed immediately prior to the effective date of this Ordinance.

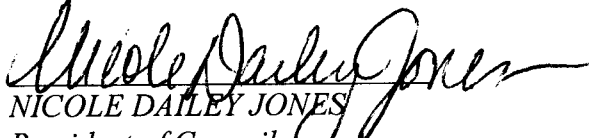
**SECTION 3:** That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public health, safety and welfare, and for the reason that this legislation must go into effect immediately in order to be in effect by January 1, 2016; and further provided it receives the affirmative vote of two-thirds of all members of Council, it shall take effect and be in force on January 1, 2016, following passage and approval by the Mayor.

PASSED: December 15, 2015

First Reading: 11/17/2015  
Second Reading: 12/1/2015  
Third Reading: 12/15/2015  
Committee: Finance

ATTEST:

  
MARIE GALLO  
Clerk of Council

  
NICOLE DAILEY JONES  
President of Council

APPROVED: 12/15/2015

APPROVED AS TO LEGAL FORM:

  
MAYOR KEVIN M. KENNEDY

/s/ Michael R. Gareau, Jr.  
MICHAEL R. GAREAU, JR.  
Director of Law

CODIFIED ORDINANCES OF NORTH OLMSTED

PART FIFTEEN - TAXATION CODE

TITLE ONE - Municipal Income Tax

- Chap. 1501.01 Purpose.
- Chap. 1501.03 Definitions.
- Chap. 1501.05 Imposition of Income Tax.
- Chap. 1501.07 Determination of Allocation of Tax.
- Chap. 1501.09 Exemptions.
- Chap. 1501.11 Returns.
- Chap. 1501.13 Payment of Tax.
- Chap. 1501.15 Interest and Penalties.
- Chap. 1501.17 Collection of Unpaid Taxes and Refunds  
of Overpayments.
- Chap. 1501.19 Taxpayer Relief.
- Chap. 1501.21 Disbursements of Receipts of Tax  
Collection.
- Chap. 1501.23 Duties and Authority of the Administrator.
- Chap. 1501.25 Board of Review.
- Chap. 1501.27 Other Provisions.

TITLE THREE - Additional Taxes

- Chap. 1505. Motor Vehicle License Tax.
- Chap. 1507. Admissions Tax.

CODIFIED ORDINANCES OF NORTH OLMSTED

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- Chap. 1501.27 Other Provisions.

CHAPTER 1501.01  
Purpose

1501.0101 Purpose of levy of income tax.

CROSS REFERENCES

- Limitation on rate of taxation - see CHTR. Art. VIII, Sec. 8
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718

1501.0101 PURPOSE OF LEVY OF INCOME TAX.

There shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided, to provide funds for the City of North Olmsted to be allocated for use as follows:

- (a) Fifteen percent (15%) to pay costs of services and facilities for solid waste management, recycling and disposal;
- (b) Fifteen percent (15%) to pay costs of any permanent improvements for the City (including permanent improvements to the City's street and storm water drainage systems), including the payment of debt charges on bonds and notes issued after 1990 for those purposes, and costs of maintaining the City's street and storm water drainage systems and providing related equipment; and
- (c) The balance to pay costs of general municipal functions of the City.

CHAPTER 1501.03  
Definitions

1501.0301	Definitions generally.	1501.0312	Nonresident.
1501.0302	Administrator.	1501.0313	Nonresident unincorporated business entity.
1501.0303	Association.	1501.0314	Person.
1501.0304	Board of Review.	1501.0315	Place of business.
1501.0305	Business.	1501.0316	Resident.
1501.0306	Corporation.	1501.0317	Resident unincorporated business entity.
1501.0307	Employee.	1501.0318	Taxable income.
1501.0308	Employer.	1501.0319	Taxable year.
1501.0309	Fiscal year.	1501.0320	Taxpayer.
1501.0310	Gross receipts.		
1501.0311	Net profits.		

1501.0301 DEFINITIONS GENERALLY.

For the purposes of Title One of this Part Fifteen - Taxation Code, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections of this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord.67-70. Passed 5-16-67.)

1501.0302 ADMINISTRATOR.

"Administrator" means the individual designated by the Mayor, with approval of Council, to serve under the supervision and direction of the Director of Finance, to administer and enforce the provisions of the City income tax.

(Ord. 67-70. Passed 5-16-67.)

1501.0303 ASSOCIATION.

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

(Ord. 67-70. Passed 5-16-67.)

1501.0304 BOARD OF REVIEW.

"Board of Review" means the Board created by and constituted as provided in Section 1501.2501 of Chapter 1501.25 herein.

(Ord. 67-70. Passed 5-16-67.)

1501.0305 BUSINESS.

"Business" means any 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, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.  
(Ord. 67-70. Passed 5-16-67.)

1991 Replacement

2003 Replacement

**1501.0306 CORPORATION.**

"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. (Ord. 67-70. Passed 5-16-67.)

**1501.0307 EMPLOYEE.**

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer. (Ord. 67-70. Passed 5-16-67.)

**1501.0308 EMPLOYER.**

"Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation. (Ord. 67-70. Passed 5-16-67.)

**1501.0309 FISCAL YEAR.**

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 67-70. Passed 5-16-67.)

**1501.0310 GROSS RECEIPTS.**

"Gross receipts" means the total income from any source whatever. (Ord. 67-70. Passed 5-16-67.)

**1501.0311 NET PROFITS.**

"Net profits" means a net gain from the operation of a business, profession, enterprise, or other activity, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this Title, Federal, State and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners. (Ord. 67-60. Passed 5-16-67.)

**1501.0312 NONRESIDENT.**

"Nonresident" means an individual domiciled outside the City of North Olmsted. (Ord. 67-70. Passed 5-16-67.)

**1501.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.**

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of North Olmsted. (Ord. 67-70. Passed 5-16-67.)

**1501.0314 PERSON.**

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof. (Ord. 67-70. Passed 5-16-67.)



**1501.0315 PLACE OF BUSINESS.**

"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.

(Ord. 67-70. Passed 5-16-67.)

**1501.0316 RESIDENT.**

"Resident" means an individual domiciled in the City of North Olmsted.

(Ord. 67-70. Passed 5-16-67.)

**1501.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.**

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of North Olmsted. (Ord. 67-70. Passed 5-16-67.)

**1501.0318 TAXABLE INCOME.**

"Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Title.

(Ord. 67-70. Passed 5-16-67.)

**1501.0319 TAXABLE YEAR.**

"Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this Title, and in the case of a return for a fractional part of a year, the period for which such return is required to be made. (Ord. 67-70. Passed 5-16-67.)

**1501.0320 TAXPAYER.**

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 67-70. Passed 5-16-67.)

CHAPTER 1501.05  
Imposition of Income Tax

1501.0501    Rate and income taxable.    1501.0502    Effective period.

CROSS REFERENCES

Limitation on rate of taxation - see CHTR. Art. VIII, Sec. 8

Nonresident taxpayers - see TAX. 1501.1901

Collection of tax after termination of Title One - see TAX.  
1501.2702

1501.0501 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 1501.0101 shall be imposed on and after March 1, 1991, at the rate of two percent (2%) per annum upon the following:

- (a)    On all salaries, wages, commissions and other compensation earned on and after March 1, 1991, by residents of the City of North Olmsted.
- (b)    On all salaries, wages, commissions and other compensation earned on and after March 1, 1991, by nonresidents of the City of North Olmsted for work done or services performed or rendered within the City of North Olmsted.
- (c)    (1)    On the portion attributable to the City of North Olmsted of the net profits earned on and after March 1, 1991, by all resident unincorporated business entities derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of North Olmsted.
- (2)    On the portion of the distributive share of the net profits earned on and after March 1, 1991, by a resident partner or owner of a resident unincorporated business entity not attributable to the City of North Olmsted and not levied against such unincorporated business entity by the City of North Olmsted.
- (d)    (1)    On the portion attributable to the City of North Olmsted of the net profits earned on and after March 1, 1991, by all nonresident unincorporated business entities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City of North Olmsted, whether or not such unincorporated business entity has an office or place of business in the City of North Olmsted.

1991 Replacement

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- (2) On the portion of the distributive share of the net profits earned on and after March 1, 1991, by a resident partner or owner of a nonresident unincorporated business entity not attributable to the City of North Olmsted and not levied against such unincorporated business entity by the City of North Olmsted.
- (e) On the portion attributable to the City of North Olmsted of the net profits earned on and after March 1, 1991, by all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of North Olmsted, whether or not such corporations have an office or place of business in the City of North Olmsted.  
(Ord. 90-155. Approved by voters 2-5-91.)

1501.0502 EFFECTIVE PERIOD.

The tax imposed by this Title shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, earned on and after March 1, 1991.  
(Ord. 90-154. Passed 2-6-91.)

1991 Replacement

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CHAPTER 1501.07  
Determination of Allocation of Tax

1501.0701	Method of determination.	1501.0704	Rentals.
1501.0702	Sales made in the City.	1501.0705	Operating loss-carry forward.
1501.0703	Total allocation.		

CROSS REFERENCES

Sources of income not taxed - see TAX. 1501.0901

Credit for tax paid another municipality - see TAX. Ch. 1501.19

1501.0701 METHOD OF DETERMINATION.

In the taxation of income which is subject to the City income taxes, 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 the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City in the absence of actual records thereof, shall be determined as follows: Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (a) The average net book value of the real and tangible 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.
- (b) 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.

- (c) 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 submitted so as to produce such result. (Ord. 67-70. Passed 5-16-67.)

#### 1501.0702 SALES MADE IN THE CITY.

As used in subsection (c) of Section 1501.0701, "sales made in the City" means:

- (a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City of North Olmsted.
- (b) All sales of tangible personal property which is delivered within the City of North Olmsted regardless of where title passes even though transported from a point outside of the City of North Olmsted if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of North Olmsted and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the City of North Olmsted to purchasers outside of the City of North Olmsted 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. 67-70. Passed 5-16-67.)

#### 1501.0703 TOTAL ALLOCATION.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 1501.0701 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 1501.0701.

A factor is applicable even though its may be allocable entirely in or outside the City. (Ord. 67-70. Passed 5-16-67.)

#### 1501.0704 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 1501.0501 (c), (d) and (e) only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be

considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage or net sales, receipt or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipt derived from the farm, whether or not the gross income exceeds such two hundred fifty dollars (\$250.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

The taxpayers subject to the provisions of this section shall submit or cause to be submitted to the Tax Administration a list of names and addresses of all persons, firms, corporations, or other entities occupying, leasing, renting or otherwise using any premises belonging to the taxpayer within this Municipality in such a manner as to produce economic benefit to the taxpayer, whether or not such benefit is collected as rent and whether or not such benefit results in a profit or loss. The required list shall be prepared as of December 31, of each year and submitted on or before January 31 of the following year and at such other times as may be prescribed by the Tax Administrator. (Ord. 72-35. Passed 3-21-72.)

#### 1501.0705 OPERATING LOSS-CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City, until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss-carry forward shall be determined.  
(Ord. 67-70. Passed 5-16-67.)





CHAPTER 1501.09  
Exemptions

1501.0901 Sources of income not taxed.

CROSS REFERENCES

Credit for tax paid another municipality - see TAX. Ch. 1501.19

1501.0901 SOURCES OF INCOME NOT TAXED.

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

- (a) Pay or allowance of active members of the armed forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest in Federal obligations, items of income already taxed by the State of Ohio from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commission and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes.  
(Ord. 67-70. Passed 5-16-67.)

CHAPTER 1501.11  
Returns

1501.1101	When return required to be made.	1501.1104	Consolidated returns.
1501.1102	Form and content of return.	1501.1105	Amended returns.
1501.1103	Extension of time for filing returns.		

CROSS REFERENCES

Determination of allocation of tax - see TAX. Ch. 1501.07  
 Payment of tax on filing return - see TAX. 1501.1301  
 Violations; penalty - see TAX. 1501.1505  
 Collection of unpaid taxes; refunds of overpayments - see  
 TAX. Ch. 1501.17

**1501.1101 WHEN RETURN REQUIRED TO BE MADE.**

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 30 of the year following the effective date of this Title and on or before April 30 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 within four months from the end of such fiscal year or period. (Ord. 71-161. Passed 12-21-71.)

**1501.1102 FORM AND CONTENT OF RETURN.**

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

- (a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from 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;
  - (b) The amount of the tax imposed by this Title on such earnings and profits; and
  - (c) Such other pertinent statements, information returns or other information as the Administrator may require.
- (Ord. 67-70. Passed 5-16-67.)

**1501.1103 EXTENSION OF TIME FOR FILING RETURNS.**

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. (Ord. 67-70. Passed 5-16-67.)

**1501.1104 CONSOLIDATED RETURNS.**

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City. (Ord. 67-70. Passed 5-16-67.)

**1501.1105 AMENDED RETURNS.**

(a) 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, limitations or both, contained in Sections 1501.1701, 1501.1702 and 1501.1703 and Section 1501.1901. Such amended return shall be on a form obtainable upon request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, 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.  
(Ord. 67-70. Passed 5-16-67.)

CHAPTER 1501.13  
Payment of Tax

1501.1301	Payment of tax on filing of return.	1501.1305	Form of declaration.
1501.1302	Collection at source.	1501.1306	Payment to accompany declaration.
1501.1303	Declaration of income.	1501.1307	Annual return.
1501.1304	Filing of declaration.	1501.1308	Extensions.

CROSS REFERENCES

Determination of allocation of tax - see TAX. Ch. 1501.07  
 Sources of income not taxed - see TAX. 1501.0901  
 Returns - see TAX. Ch. 1501.11  
 Interest and penalties - see TAX. Ch. 1501.15  
 Collection of unpaid taxes; refund of overpayment - see TAX. Ch. 1501.17  
 Credit for tax paid another municipality - see TAX. Ch. 1501.19

1501.1301 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that:

- (1) Where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 1501.1302; or
- (2) Where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 1501.1303; or
- (3) Where an income tax has been paid on the same income to another municipality,

credit for the amount so deducted or paid, or credit to the extent provided for in Section 1501.1901, shall be deducted from the amount to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) A taxpayer who has overpaid the amount of tax to which the City of North Olmsted is entitled under the provisions of this Title may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, such overpayment or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.  
 (Ord. 71-161. Passed 12-21-71.)

**1501.1302 COLLECTION AT SOURCE.**

(a) In accordance with the rules and regulations prescribed by the Administrator, each employer within or doing business within the City of North Olmsted shall deduct, at the time of the payment of such salary, wages, commissions or other compensation, the tax of two percent (2%) per annum of the gross salaries, wages, commissions or other compensation due by the employer to his employees, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

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

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City of North Olmsted, but such employee shall be subject to all of the requirements of this Title.  
(Ord. 90-154. Passed 2-6-91.)

**1501.1303 DECLARATIONS OF INCOME.**

Except as otherwise provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current year, together with the estimated tax due thereon, less the tax withheld within the City of North Olmsted and less the tax credit allowed in Section 1501.1901, unless such taxpayer anticipates that such tax will be fully withheld within the City of North Olmsted, and any income earned outside of the City of North Olmsted will be fully taxed at the same or a higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required.  
(Ord. 73-149. Passed 12-18-73.)

1991 Replacement

2003 Replacement

**1501.1304 FILING OF DECLARATION.**

(a) The declaration required by Section 1501.1303 above shall be filed on or before April 30 of each year during the effective period set forth in Section 1501.0502 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period. (Ord. 67-70. Passed 5-16-67.)

**1501.1305 FORM OF DECLARATION.**

(a) The declaration required by Section 1501.1303 shall be filed on a form furnished by or obtainable from the Administrator. As provided in Section 1501.1303, credit shall be taken for the City of North Olmsted tax to be withheld from any portion of such income and credit shall be taken for the tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 1501.1901.

(b) 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. (Ord. 71-161. Passed 12-21-71.)

**1501.1306 PAYMENT TO ACCOMPANY DECLARATION.**

Such declaration of estimated tax to be paid to the City of North Olmsted 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 and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment date or dates. (Ord. 73-149. Passed 12-18-73.)

**1501.1307 ANNUAL RETURN.**

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City of North Olmsted shall be paid therewith in accordance with the provisions of Section 1501.1301. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay and balance due at such time in lieu of filing such declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax. (Ord. 71-161. Passed 12-21-71.)

1501.1308 EXTENSIONS.

The Administrator may extend the time of filing any return required of making any payment or performing any other act required by this chapter for a period not to exceed six months beyond the original required date.

(Ord. 67-70. Passed 5-16-67.)



CHAPTER 1501.15  
Interest and Penalties

1501.1501	Interest on unpaid tax.	1501.1505	Violations; penalty.
1501.1502	Penalties on unpaid taxes and unfiled returns.	1501.1506	Limitation on prosecution.
1501.1503	Exceptions.	1501.1507	Failure to procure forms not excuse.
1501.1504	Abatement of interest and penalty.	1501.1508	Personal liability.

CROSS REFERENCES

When return required to be made - see TAX. 1501.1101  
 Extension of time for filing return - see TAX. 1501.1308  
 Unpaid taxes recoverable as other debts - see TAX. 1501.1701  
 Duties and authority of Administrator - see TAX. Ch. 1501.23  
 Right of appeal - see TAX. 1501.2503

1501.1501 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this Title, Part 15, Taxation Code of the City and remaining unpaid after they become due, shall bear interest at the rate of ten percent (10%) per annum. (Ord. 78-49. Passed 5-16-78.)

1501.1502 PENALTIES ON UNPAID TAXES AND UNFILED RETURNS.

(a) In addition to interest as provided in Section 1501.1501, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

- (1) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent (10%) per annum, but not less than twenty-five dollars (\$25.00) for any first such failure, fifty dollars (\$50.00) for any second failure, and one hundred dollars (\$100.00) for any third or additional failure.
- (2) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) on any unpaid amount and shall not be less than twenty-five dollars (\$25.00) for any first such failure, fifty dollars (\$50.00) for any second failure, and one hundred dollars (\$100.00) for any third or additional failure.

(b) There is hereby imposed a late filing fee penalty in the amount of \$25.00 for each annual income tax return not filed when due.  
 (Ord. 2002-181. Passed 12-17-02.)

**1501.1503 EXCEPTIONS.**

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided, further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment against a taxpayer by the Administrator resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability. (Ord. 67-70. Passed 5-16-67.)

**1501.1504 ABATEMENT OF INTEREST AND PENALTY.**

Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 71-161. Passed 12-21-71.)

**1501.1505 VIOLATIONS; PENALTY.**

Any person who shall:

- (a) Fail, neglect, or refuse to make any return or declaration required by this Title; or
- (b) Make any incomplete, false or fraudulent return; or
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Title; or
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (f) Fail to appear before the 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 Administrator; or
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fail to comply with the provisions of this Title or any order or subpoena of the Administrator authorized hereby; or
- (i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof; or
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or to knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Title;

shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(Ord. 67-70. Passed 5-16-67.)

**1501.1506 LIMITATION ON PROSECUTION.**

All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.06. (Ord. 67-70. Passed 5-16-67.)

**1501.1507 FAILURE TO PROCURE FORMS NOT EXCUSE.**

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax. (Ord. 67-70. Passed 5-16-67.)

**1501.1508 PERSONAL LIABILITY.**

If any corporation, limited liability company or business trust required to file returns and to remit taxes withheld from employees in accordance with Section 1501.1302 fails for any reason to make the filing or payment, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, or any of its officers, members, managers, or trustees who are responsible for the execution of the corporation's, limited liability company's or business trust's fiscal responsibilities, shall be personally liable for the failure. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust shall not discharge a responsible officer's, member's, employee's or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or remit tax due. The sum due for the liability may be collected by assessment in the manner provided in this chapter.

(Ord. 97-112. Passed 12-16-97.)



CHAPTER 1501.17  
Collection of Unpaid Taxes and Refunds of Overpayments

1501.1701	Unpaid taxes recoverable as other debts.	1501.1703	Amounts of less than \$1.00.
1501.1702	Refunds of taxes erroneously paid.		

CROSS REFERENCES

Returns - see TAX. Ch. 1501.11  
 Payment of tax - see TAX. Ch. 1501.13  
 Taxpayer's choice of disposition of overpayment - see TAX.  
     1501.1301(b)  
 Payment to accompany declaration - see TAX.1501.1306  
 Interest and penalty on unpaid tax - see TAX. 1501.1501,  
     1501.1502

**1501.1701 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.**

All taxes imposed by this Title shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, or omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.  
 (Ord. 67-70. Passed 5-16-67.)

**1501.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.**

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.  
 (Ord. 67-70. Passed 5-16-67.)

**1501.1703 AMOUNTS OF LESS THAN \$1.00.**

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.  
 (Ord. 67-70. Passed 5-16-67.)



CHAPTER 1501.19  
Taxpayer Relief

1501.1901 Tax credit.

CROSS REFERENCES

Income taxable - see TAX. 1501.0501(d)

Refunds of overpayments - see TAX. Ch. 1501.17

1501.1901 TAX CREDIT.

(a) When the taxable income of a resident of the City of North Olmsted is subject to a municipal income tax in another municipality on the same income taxable under this Title, such resident shall be allowed, as a credit against the tax imposed by this Title, a portion of the amount of income tax paid on such taxable income to such other municipality, equal to one hundred percent (100%) of the product obtained by multiplying:

- (1) The taxable income earned in or attributable to such other municipality, by
- (2) The tax rate of such other municipality or, if that tax rate exceeds two percent (2%), by two percent (2%).

For the purposes of this section, taxable income includes the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such City of North Olmsted resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this Title for failure to file a return.

(Ord. 90-154. Passed 2-6-91.)





CHAPTER 1501.21  
Disbursements of Receipts of Tax Collection

1501.2101 Disbursement of funds collected.

CROSS REFERENCES

Custody and deposit of funds - see CHTR. Art. VIII, Sec.5

1501.2101 DISBURSEMENT OF FUNDS COLLECTED.

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

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this Title shall be paid; and
- (b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited as follows:
  - (1) Fifteen percent (15%) shall be deposited in a special fund and used, as directed by Council, to pay costs of services and facilities for solid waste management, recycling and disposal;
  - (2) Fifteen percent (15%) shall be deposited in a special fund and used, as directed by Council, to pay costs of any permanent improvements for the City (including permanent improvements to the City's street and storm water drainage systems), including the payment of debt charges on bonds and notes issued after 1990 for those purposes, and costs of maintaining the City's street and storm water drainage systems and providing related equipment; and
  - (3) The balance shall be deposited in the General Fund and used to pay costs of general municipal functions.  
(Ord. 90-154. Passed 2-6-91.)



CHAPTER 1501.23  
Duties and Authority of the Administrator

<p>1501.2301 Duty to receive tax imposed.</p> <p>1501.2302 Duty to enforce collection.</p> <p>1501.2303 Authority to make and enforce regulations.</p> <p>1501.2304 Authority to arrange installment payments.</p> <p>1501.2305 Authority to determine amount of tax due.</p> <p>1501.2306 Authority to make investigations.</p> <p>1501.2307 Authority to compel production of records.</p>	<p>1501.2308 Refusal to produce records.</p> <p>1501.2309 Confidential nature of information obtained; penalty.</p> <p>1501.2310 Taxpayer required to retain records.</p> <p>1501.2311 Authority to contract for central collection facilities.</p> <p>1501.2312 Authority to delegate duties of the Administrator.</p>
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CROSS REFERENCES

Administrator defined - see TAX. 1501.0302  
 Filing of returns - see TAX. Ch. 1501.11  
 Collection of payments - see TAX. Ch. 1501.13  
 Regulations regarding collection at source - see TAX. 1501.1302  
 Extension of time for filing returns - see TAX. 1501.1308  
 Abatement of interest and penalty - see TAX. 1501.1504  
 Additional assessments - see TAX. 1501.1701  
 Reciprocity credit claims - see TAX. 1501.1903  
 Appeal from decision to Board of Review - see TAX. 1501.2503

**1501.2301 DUTY TO RECEIVE TAX IMPOSED.**

It shall be the duty of the Administrator to receive the tax imposed by this Title in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.  
 (Ord. 67-70. Passed 5-16-67.)

**1501.2302 DUTY TO ENFORCE COLLECTION.**

It shall be the duty of the Administrator to enforce payment of all taxes owing to 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 make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof. (Ord. 67-70. Passed 5-16-67.)

**1501.2303 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.**

The Administrator is hereby charged with the enforcement of the provisions of this Title 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 Title, including provisions for the re-examination and correction of returns.  
(Ord. 67-70. Passed 5-16-67.)

**1501.2304 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.**

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proven to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this Title.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 1501.1701 and 1501.1505 of this Title shall apply. (Ord. 67-70. Passed 5-16-67.)

**1501.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.**

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the 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 thereof, if any.  
(Ord. 67-70. Passed 5-16-67.)

**1501.2306 AUTHORITY TO MAKE INVESTIGATIONS.**

The Administrator or any authorized employee 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 Administrator believes is subject to the provisions of this Title, for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due under this Title. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator or his duly authorized agent or employee the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.  
(Ord. 67-70. Passed 5-16-67.)

**1501.2307 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.**

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.  
(Ord. 67-70. Passed 5-16-67.)

**1501.2308 REFUSAL TO PRODUCE RECORDS.**

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or 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 chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 1501.1505 hereof.  
(Ord. 67-70. Passed 5-16-67.)

**1501.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED; PENALTY.**

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Title shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000), or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosures of confidential information shall be guilty of an offense punishable by immediate dismissal.  
(Ord. 67-70. Passed 5-16-67.)

**1501.2310 TAXPAYER REQUIRED TO RETAIN RECORDS.**

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid. (Ord. 67-70. Passed 5-16-67.)

**1501.2311 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.**

The City of North Olmsted, having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 71-75, which Regional Council has organized a municipal tax collection agency known as the Regional Income Tax Agency, the Board of Trustees of the Regional Income Tax Agency is authorized to administer and enforce the provisions of this Title as the agent of the City of North Olmsted, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of such agencies through the Administrator of the agency. Provided, however, the Administrator of the agency shall have no authority to abate penalties or interest provided for in Sections 1501.1501 and 1501.1502.  
(Ord. 71-161. Passed 12-21-71.)

**1501.2312 AUTHORITY TO DELEGATE DUTIES OF THE ADMINISTRATOR.**

In the event the Administrator, on behalf of the City of North Olmsted, enters into an agreement with any other municipal corporation to act as agent of the City of North Olmsted for the purpose of administering the income tax laws of the City of North Olmsted and of providing a central facility for the collection of the income tax, as provided in Section 1501.2311 hereof, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation.  
(Ord. 67-70. Passed 5-16-67.)



CHAPTER 1501.25  
Board of Review

- |           |   |           |                  |
|-----------|---|-----------|------------------|
| 1501.2501 | Board of Review established.                        | 1501.2503 | Right of appeal. |
| 1501.2502 | Duty to approve regulations<br>and to hear appeals. |           |                  |

CROSS REFERENCES

Defined - see TAX. 1501.0304  
Abatement of interest and penalty - see TAX. 1501.1504  
Confidential nature of information obtained; penalty - see  
TAX. 1501.2309

**1501.2501 BOARD OF REVIEW ESTABLISHED.**

A Board of Review, consisting of the Mayor or a director designated by him, the Director of Law, the Assistant Director of Law designated by him and a member of Council to be elected by that body, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as chairman and one to serve as secretary. 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 1501.2309 with reference to the confidential character of information acquired to be disclosed by this Title shall apply to such matters as may be heard before the Board on appeal.

(Ord. 93-117. Passed 10-5-93.)

**1501.2502 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.**

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this Title, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling of decision of the Administrator and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(Ord. 67-70. Passed 5-16-67.)

**1501.2503 RIGHT OF APPEAL.**

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this Title may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the

Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 67-70. Passed 5-16-67.)





CHAPTER 1501.27  
Other Provisions

1501.2701	Declaration of legislative intent.	1501.2702	Collection of tax after termination of Title One.
		1501.2703	Residential landlords.

CROSS REFERENCES

Effective period - see TAX. 1501.0502  
 Authority to contract for central collection facilities - see  
 TAX. 1501.2311

**1501.2701 DECLARATION OF LEGISLATIVE INTENT.**

If any sentence, clause, section or part of this Title, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Title and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Title. It is hereby declared to be the intention of Council that this Title would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.  
 (Ord. 67-70. Passed 5-16-67.)

**1501.2702 COLLECTION OF TAX AFTER TERMINATION OF TITLE ONE.**

(a) This Title shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this Title are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this Title shall have been fully terminated, subject to the limitations contained in Sections 1501.1701, 1501.1702, 1501.1505, 1501.1506 and 1501.1507.

(b) Annual returns due for all or any part of the last effective year of this Title shall be due on the date provided in Sections 1501.1101 and 1501.1302 of this Title as though the same were continuing.  
 (Ord. 67-70. Passed 5-16-67.)



1501.2703 RESIDENTIAL LANDLORDS.

(a) On or before February 1, 1990, all property owners of rental or leased property who rent to tenants of residential premises shall file with the Finance Director a report showing the names and addresses of each such tenant who occupies residential premises within the corporate limits of the City, as of January 1, 1990.

(b) Beginning January 1, 1990 and thereafter, within thirty days after a new tenant occupies residential rental property of any kind within the City, all property owners of rental or leased residential property who rent to tenants, shall file with the Finance Director a report showing the names and addresses of each tenant who occupies residential premises within the corporate limits of the City.

(c) Beginning January 1, 1990 and thereafter, within thirty days after a tenant vacates a rental or leased residential property located within the City, the property owner of such vacated rental or leased property shall file with the Finance Director a report showing the date of vacating from the rental or leased residential property and identifying such vacating tenant.

(d) For purposes of this section, "tenant" means:

- (1) If there is a written lease or rental agreement, the person or persons who signed the written lease or rental agreement with the owner;  
or
- (2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.

(e) Whoever violates any provision of this section shall:

- (1) For a first offense: Pay a fine of not more than twenty-five dollars (\$25.00);
- (2) For a second offense: Pay a fine of not more than fifty dollars (\$50.00);
- (3) For a third and all subsequent offenses: Pay a fine of not more than one hundred dollars (\$100.00).  
(Ord. 89-81. Passed 11-8-89.)

**PART 15 – TAXATION CODE**

**Title One – Municipal Code**

**1501.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.**

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, the City of North Olmsted (the City) hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided. This Ordinance is to have prospective application only. Salaries, wages, commissions and other compensation, together with net profits, or any other income subject to the North Olmsted municipal income tax and earned in and prior to the year 2015 shall be governed by Chapter 15, Title One of the Codified Ordinances, titled "Taxation Code; Municipal Income Tax" as it existed immediately prior to the effective date of this Chapter."

There shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided, to provide funds for the City of North Olmsted to be allocated for use as follows:

- (a) Fifteen percent (15%) to pay costs of services and facilities for solid waste management, recycling and disposal;
- (b) Fifteen percent (15%) to pay costs of any permanent improvements for the City including permanent improvements to the City's street and storm water drainage systems, the payment of debt charges on bonds and notes issued after 1990 for those purposes, and costs of maintaining the City's street and storm water drainage systems and related equipment; and
- (c) The balance to pay costs of general municipal functions of the City.

(B)(1) The annual tax is levied at a rate of 2% (two percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in North Olmsted. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 1501.03 of Chapter 1501 and other sections as they may apply.

(2) Intentionally left blank.

(C) The tax on income and the withholding tax established by this [Ordinance 2015-104](#) are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718).

**1501.02 DEFINITIONS.**

(A) Any term used in Chapter 1501 (Chapter) that is not otherwise defined in this Chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the ORC, unless a different meaning is clearly required. If a term used in this Chapter that is not otherwise defined in this Chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the ORC and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the ORC.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

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(C) As used in this chapter/ordinance:

**(1) "Adjusted federal taxable income,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(d) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

(c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(d)(i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

(e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the ORC;

(h)(i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (C)(1)(h) of this section to offset qualifying wages.

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(iii)(a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by (C)(1)(h)(i) of this section.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to (C)(1)(h) of this section.

(v) Nothing in division (C)(1)(h)(iii)(a) of this section precludes a person from carrying forward, use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(1)(h)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(1)(h)(iii)(a) of this section shall apply to the amount carried forward.

(i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 1501.05.

(j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 1501.05.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(d) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (C)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2)(a) "**Assessment**" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of

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Tax Review pursuant to Section 1501.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 1501.09, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.

(3) "**Audit**" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) "**Board of Tax Review**" or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 1501.21.

(5) "**Calendar quarter**" means the three-month period ending on the last day of March, June, September, or December.

(6) "**Casino operator**" and "**casino facility**" have the same meanings as in Section 3772.01 of the ORC.

(7) "**Certified mail,**" "**express mail,**" "**United States mail,**" "**postal service,**" and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.

(8) "**Disregarded entity**" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(9) "**Domicile**" means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.

(10) "**Employee**" means an individual who is an employee for federal income tax purposes.

(11) "**Employer**" means a person that is an employer for federal income tax purposes.

(12) "**Exempt income**" means all of the following:

(a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.

(b) Intangible income. However, a municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.



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(c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.

(d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

(g) Alimony and child support received.

(h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.

(i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.

(j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.

(k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.

(l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.

(m) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

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(n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.

(o) To the extent authorized under a resolution or ordinance adopted by the City before January 1, 2016, all or a portion of the income of individuals or a class of individuals under 18 years of age.

(p)(i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 1501.04 to the extent the qualifying wages are not subject to withholding for the City under either of those divisions.

(ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 1501.04.

(iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (C)(2) of Section 1501.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 1501.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(q)(i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than 20 days in a taxable year.

(ii) The exemption provided in division (C)(12)(q)(ii) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the municipal corporation.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 1501.04 (C).

(iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

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(iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the ORC on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(s) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(13) "**Form 2106**" means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(14) "**Generic form**" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.

(15) "**Gross receipts**" means the total revenue derived from sales, work done, or service rendered.

(16) "**Income**" means the following:

(a)(i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24)(d) of this division.

(ii) For the purposes of division (C)(16)(a)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

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(iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division(C)(12)(n) or (C)(16)(e) of this section.

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(c) For taxpayers that are not individuals, net profit of the taxpayer;

(d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(e) Intentionally left blank.

(17) "**Intangible income**" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the ORC, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(18) "**Internal Revenue Code**" has the same meaning as in Section 5747.01 of the ORC.

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

(20) "**Municipal corporation**" includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691 , 715.70 , 715.71 , or 715.74 of the ORC.

(21)(a) "**Municipal taxable income**" means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the City under Section 1501.03, and further reduced by any pre-2017 net operating loss carryforward available to the person for the City.

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(ii)(a) For an individual who is a resident of the City, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.

(b) For an individual who is a nonresident of the City, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under Section 1501.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.

(b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.

(22) **"Municipality"** means the same as the City of North Olmsted. If the terms are capitalized in the ordinance they are referring to North Olmsted. If not capitalized they refer to a municipal corporation other than North Olmsted.

(23) **"Net operating loss"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

Comment [NJ1]: Moved to alphabetize it.

(24)(a) **"Net profit"** for a person other than an individual means adjusted federal taxable income.

(b) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.

(c) For the purposes of this chapter/ordinance, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(d) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by the City, may elect to be treated as a C corporation for the City. The election shall be made on the annual return for the City. The City will treat the publicly traded partnership as a C corporation if the election is so made.

(25) **"Nonresident"** means an individual that is not a resident.

(26) **"Ohio Business Gateway"** means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

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(27) **"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. "Other payer" includes casino operators and video lottery terminal sales agents.

(28) **"Pass-through entity"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(30) **"Person"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(31) **"Postal service"** means the United States postal service.

(32) **"Postmark date," "date of postmark,"** and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.

(33)(a) **"Pre-2017 net operating loss carryforward"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the municipal corporation that was adopted by the municipal corporation before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such municipal corporation in future taxable years.

(b) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(34) **"Publicly traded partnership"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

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(iii) Intentionally left blank.

(iv) Intentionally left blank.

(vi) Any amount included in wages that is exempt income.

(b) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax adopted before January 1, 2016. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(ii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or Section 1501.04, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

**(36) "Related entity"** means any of the following:

(a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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(b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

(c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;

(d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.

(37) "**Related member**" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, " twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.

(38) "**Resident**" means an individual who is domiciled in the municipal corporation as determined under Section 1501.03(E).

(39) "**S corporation**" means a person that has made an election under subChapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(40) "**Schedule C**" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "**Schedule E**" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "**Schedule F**" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(43) "**Single member limited liability company**" means a limited liability company that has one direct member.

(44) "**Small employer**" means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.



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(45) "**Tax Administrator**" means the individual charged with direct responsibility for administration of an income tax levied by the City in accordance with this chapter/ordinance.

(46) "**Tax return preparer**" means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

(47) "**Taxable year**" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(48)(a) "**Taxpayer**" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter/ordinance. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.

(b)(i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

(a) The limited liability company's single member is also a limited liability company.

(b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (C)(38) of this section as this section existed on December 31, 2004.

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

(e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(ii) For purposes of division (C)(48)(b)(ii) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.

(49) "**Taxpayers' rights and responsibilities**" means the rights provided to taxpayers in Sections 1501.09, 1501.12, 1501.13, 1501.19(B), 1501.20, 1501.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by City for the imposition and administration of a municipal income tax.

(50) "**Video lottery terminal**" has the same meaning as in Section 3770.21 of the ORC.

(51) "**Video lottery terminal sales agent**" means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.

**1501.03 IMPOSITION OF INCOME TAX.**

The income tax levied by the City at a rate of two percent [2%] is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the City.

**Individuals.**

(A) For residents of the City, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 1501.02(C)(16)).

(B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 1501.02(C)(21). Exemptions which may apply are specified in Section 1502.02(C)(12).

**Refundable credit for Nonqualified Deferred Compensation Plan.**

(D)(1) As used in this division:

(a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

(b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(c)(i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to the City with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the City each year with respect to the nonqualified deferred compensation plan.

(d) "Refundable credit" means the amount of City income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.

(2) If, in addition to the City, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from

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each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the City for all taxable years with respect to the nonqualified deferred compensation plan.

(4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

**Domicile.**

(E)(1)(a) An individual is presumed to be domiciled in the City for all or part of a taxable year if the individual was domiciled in the City on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City for all or part of the taxable year.

(b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the City for all or part of the taxable year.

(2) For the purpose of determining whether an individual is domiciled in the City for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(a) The individual's domicile in other taxable years;

(b) The location at which the individual is registered to vote;

(c) The address on the individual's driver's license;

(d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(e) The location and value of abodes owned or leased by the individual;

(f) Declarations, written or oral, made by the individual regarding the individual's residency;

(g) The primary location at which the individual is employed.

(h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is

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based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;

(i) The number of contact periods the individual has with the City. For the purposes of this division, an individual has one "contact period" with the City if the individual is away overnight from the individual's abode located outside of the City and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City.

(3) All additional applicable factors are provided in the Rules and Regulations.

**Businesses.**

(F) This division applies to any taxpayer engaged in a business or profession in the City, unless the taxpayer is an individual who resides in the City or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the ORC.

(1) Except as otherwise provided in division (F)(2) of this section, 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 municipal income taxation in the same proportion as the average ratio of the following:

(a) The average original cost of the real property 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 original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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

(b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 1501.04 (C);

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

(2)(a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(i) Separate accounting;

(ii) The exclusion of one or more of the factors;

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(iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;

(iv) A modification of one or more of the factors.

(b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 1501.12 (A).

(c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 1501.12 (A).

(d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(i) The employer;

(ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

(b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

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(a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in the City if, regardless of where title passes, the property meets any of the following criteria:

(i) The property is shipped to or delivered within the City from a stock of goods located within the City.

(ii) The property is delivered within the City from a location outside the City, provided 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.

(iii) The property is shipped from a place within the City to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(b) Gross receipts from the sale of services shall be situated to the City to the extent that such services are performed in the City.

(c) To the extent included in income, gross receipts from the sale of real property located in the City shall be situated to the City.

(d) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be situated to the City.

(e) Gross receipts from rents and royalties from tangible personal property shall be situated to the City based upon the extent to which the tangible personal property is used in the City.

(5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City's tax only if the property generating the net profit is located in the City or if the individual taxpayer that receives the net profit is a resident of the City. The City shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

(6)(a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(b) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City's income tax ordinance.

(7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(8) Left intentionally blank.

(9) Intentionally left blank.

**1501.04 COLLECTION AT SOURCE.**

**Withholding provisions.**

(A) Each employer, agent of an employer, or other payer located or doing business in the City shall withhold an income tax from the qualifying wages earned and/or received by each employee in the City. Except for qualifying wages for which withholding is not required under Section 1501.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in 1501.03 of this chapter/ordinance, of two percent (2%). An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(B)(1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:

(a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the City in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the City in any month of the preceding calendar quarter exceeded \$200.

Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.

(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.

(c) Intentionally left blank.

(2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the City. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

(3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by Tax Administrator and the City as the return required of a non-resident employee

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whose sole income subject to the tax under this Chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.

(4) An employer, agent of an employer, or other payer is not required to withhold City income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(5)(a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(b) The failure of an employer, agent of an employer, or other payer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(6) Compensation deferred before June 26, 2003, is not subject to City income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the City until such time as the withheld amount is remitted to the Tax Administrator.

(8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:

(a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City during the preceding calendar year;

(b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;

(c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;

(d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;

(e) Other information as may be required by the Tax Administrator.

(9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.



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(10) An employer is required to deduct and withhold City income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this chapter/ordinance, to be tax required to be withheld and remitted for the purposes of this section

**Occasional Entrant - Withholding.**

Comment [NJ2]: Moved from Section 3.

(C)(1) As used in this division:

(a) "Employer" includes a person that is a related member to or of an employer.

(b) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

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(f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.

(2)(a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold City income tax on qualifying wages paid to an employee for the performance of personal services in the City if the employee performed such services in the City on 20 or fewer days in a calendar year, unless one of the following conditions applies:

(i) The employee's principal place of work is located in the City.

(ii) The employee performed services at one or more presumed worksite locations in the City. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the City at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:

(a) The nature of the services are such that it will require more than 20 days of the services to complete the services;

(b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.

(iii) The employee is a resident of the City and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 1501.04.

(iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.

(b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the City only if the employee spent more time performing services for or on behalf of the employer in the City than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(i) Traveling to the location at which the employee will first perform services for the employer for the day;

(ii) Traveling from a location at which the employee was performing services for the employer to any other location;

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(iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

(iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

(v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.

(4)(a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the City exceeds the 20-day threshold, the employer shall withhold and remit tax to the City for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in [Municipality/City/Village].

(b) An employer required to begin withholding tax for the City under division (C)(4)(a) of this section may elect to withhold tax for the City for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in [Municipality/City/Village].

(5) If an employer's fixed location is in the City and the employer qualifies as a small employer as defined in Section 1501.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the City, regardless of the number of days which the employee worked outside the corporate boundaries of the City.

To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 1501.04.

**1501.05 ANNUAL RETURN; FILING.**

(A) An annual City income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

(1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 1501.05 of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due the City.

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(2) Retirees having no Municipal Taxable Income for City income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the City, at which time the retiree shall be required to comply with all applicable provisions of this ordinance/chapter.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the City, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) The City shall permit spouses to file a joint return.

(F)(1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return, and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.

(4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the City to determine and verify the

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taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(G)(1) Except as otherwise provided in this chapter/ordinance, each return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City. No remittance is required if the net amount due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of the City's income tax return.

(b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's City income tax return. If the request is received by the Tax Administrator on or before the date the City income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

(H)(1) For taxable years beginning after 2015, the City shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the City for a taxable year pursuant to division (H)(1) of this section shall file with the City an annual net profit return under division (F)(3) of this section.

(I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted

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the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 1501.04 or provisions for semi-monthly withholding.

(J) Taxes withheld for the City by an employer, the agent of an employer, or other payer as described in Section 1501.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the City, unless the amounts withheld were not remitted to the City and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the City to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the City, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the City or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the City's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

**Filing via Ohio Business Gateway.**

(M)(1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file the City's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

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

**Extension for service in or for the armed forces.**

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the City for both an extension of time for filing of the return and an extension of time for payment of taxes required by the City during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(O)(1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax

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Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipal corporation before the 181st day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(P)(1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.

(2)(a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with this chapter/ordinance. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

**Consolidated municipal income tax return.**

(R) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

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(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.

(5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.

(S)(1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the City's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(T) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated City income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the City. A taxpayer that is required to file a consolidated City income tax return for a taxable year shall file a consolidated City income tax return for all subsequent taxable years, unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(U) A taxpayer shall prepare a consolidated City income tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(V)(1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 1501.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.



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(2) No corporation filing a consolidated City income tax return shall make any adjustment otherwise required under **Section (2)(C)(1)** to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated City income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 1501.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 1501.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 1501.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City;

(b) The pass-through entity shall be subject to City income taxation as a separate taxpayer in accordance with this Chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated City income tax return shall make the computations required under divisions (R) through (Y) of Section 1501.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(X) Each corporation filing a consolidated City income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the City in accordance with this Chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

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(Y) Corporations and their affiliates that made an election or entered into an agreement with City before January 1, 2016, to file a consolidated or combined tax return with City may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

**1501.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

(A) Every individual taxpayer domiciled in the City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this Chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed the tax due the City under this chapter/ordinance.

(B) Intentionally left blank.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank.

**1501.07 ESTIMATED TAXES.**

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for the City's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to the City for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B)(1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least \$200. For the purposes of this section:

(a) Taxes withheld for the City from qualifying wages shall be considered as paid to the City in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

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(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 1501.05 or on or before the fifteenth (15<sup>th</sup>) day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15<sup>th</sup>) day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C)(1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the City, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth (15<sup>th</sup>) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;

(b) On or before the fifteenth (15<sup>th</sup>) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;

(c) On or before the fifteenth (15<sup>th</sup>) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;

(d) On or before the fifteenth (15<sup>th</sup>) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.

(2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.

(3) On or before the fifteenth (15<sup>th</sup>) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 718.05.

(D)(1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 1501.01 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

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(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the City under Section 1501.05 for that year.

(3) The taxpayer is an individual who resides in the City but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

**1501.08        ROUNDING OF AMOUNTS.**

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter/ordinance. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

**1501.09        REQUESTS FOR REFUNDS.**

(A) As used in this section, "withholding tax" has the same meaning as in Section 1501.18.

(B) Upon receipt of a request for a refund, the Tax Administrator, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the municipal corporation:

(1) Overpayments of more than ten dollars or more;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars or more.

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(C)(1) Except as otherwise provided in this chapter/ordinance, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (C)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 1501.21.

(D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 1501.18 (A)(4).

**1501.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.**

(A) Income tax that has been deposited with the City, but should have been deposited with another municipality, is allowable by the City as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with the City is subject to recovery by the City. If the City's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the City shall allow a nonrefundable credit against the tax or withholding City claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

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(C) If the City's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the City's tax rate. However, if the City's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the City, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.

**1501.11 AMENDED RETURNS.**

(A)(1) If a taxpayer's tax liability shown on the annual tax return for the City changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the City. The amended return shall be filed on a form required by the Tax Administrator.

(2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B)(1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due, together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:

(i) to determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,

(ii) if the applicable statute of limitations for civil actions or prosecutions under Section 1501.12 has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.

(C)(1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of Section 1501.12 for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by the City. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 1501.09.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's City's tax liability, that taxpayer shall make and file an amended City return showing income subject to City income tax based upon such final determination of federal or state tax liability. The taxpayer shall

pay any additional City income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars.

**Comment [AA3]:** Move this E to Section 11 Amended returns

**1501.12 LIMITATIONS.**

(A)(1)(a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 1501.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 1501.09.

(D)(1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the City does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 1501.09, with interest on that amount as provided by division (E) of Section 1501.09.

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(E) No civil action to recover City income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

**1501.13 AUDITS.**

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner.

This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest

**1501.14 SERVICE OF ASSESSMENT.**

(A) As used in this section:



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(1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.

(2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.

(C)(1)(a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.

(b) Once the Tax Administrator or other City official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the local board of tax review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.

(2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:

"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.

(D)(1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated

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with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20 percent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other City official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the local board of tax review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply.

**1501.15 ADMINISTRATION OF CLAIMS.**

(A) As used in this section, "claim" means a claim for an amount payable to the City that arises pursuant to the City's income tax imposed in accordance with this chapter/ordinance.

(B) Nothing in this Chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the municipal corporation:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

**1501.16 TAX INFORMATION CONFIDENTIAL.**

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City as authorized by this chapter/ordinance. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this Chapter and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit the City from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

**1501.17 FRAUD.**

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by City ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the City or the Tax Administrator.

**1501.18 INTEREST AND PENALTIES.**

(A) As used in this section:

(1) "Applicable law" means this chapter/ordinance, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the City provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the City.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by the City pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with the Tax Administrator or the City by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

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(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B)(1) This section applies to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to City on or after January 1, 2016.

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the City to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the City any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2)(a) With respect to unpaid income tax and unpaid estimated income tax, the City may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the City may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, the City may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.

(D) Nothing in this section requires the City to refund or credit any penalty, amount of interest, charges, or additional fees that the City has properly imposed or collected before January 1, 2016.

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(E) Nothing in this section limits the authority of the City to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31<sup>st</sup> day of October of each year the City shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) The City may impose on the taxpayer, employer, any agent of the employer, or any other payer the City's post-judgment collection costs and fees, including attorney's fees.

**1501.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.**

**Authority.**

(A) Nothing in this Chapter shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

(1)(a) Exercise all powers whatsoever of an query nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.

(b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the City's income tax ordinance;

(2) Appoint agents and prescribe their powers and duties;

(3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter/ordinance;

(5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 1501.03;

(7)(a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax

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Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.

(b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(8) Destroy any or all returns or other tax documents in the manner authorized by law;

(9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 1501.04.

**Verification of accuracy of returns and determination of liability.**

(B)(1) A Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that 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 filed, to ascertain the tax due under this chapter/ordinance. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the City or for the withholding of such tax.

(3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

**Identification information.**

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(C)(1) Nothing in this Chapter prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(2)(a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 1501.18, in addition to any applicable penalty described in Section 1501.99.

(b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 1501.19 within 30 days after filing the next tax document requiring such identifying information, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 1501.18.

(c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 1501.99 for a violation of Section 1501.17 and any other penalties that may be imposed by the Tax Administrator by law.

**1501.20 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.**

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.

(C) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(E) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(F) An opinion of the Tax Administrator issued under this section is not subject to appeal.

**1501.20 BOARD OF TAX REVIEW.**

(A)(1) The Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of the City, but such appointees may not be employees, elected officials, or contractors with the City at any time during their term or in the five years immediately preceding the date

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of appointment. One member shall be appointed by the Mayor of the City. This member may be an employee of the City, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(2) The term for members of the Board of Tax Review shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor of the City shall serve at the discretion of the administrative official.

(3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.

(4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.

(6) If a member is temporarily unable to serve on the Board of Tax Review due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the Board of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.



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(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax 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 Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.

**1501.22 AUTHORITY TO CREATE RULES AND REGULATIONS.**

Nothing in this Chapter prohibits the legislative authority of the City, or a Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by City in accordance with this chapter. Such rules shall not conflict with or be inconsistent with any provision of this chapter/ordinance. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.

All rules adopted under this section shall be published and posted on the internet.

**1501.23 RENTAL AND LEASED PROPERTY.**

(A) All property owners of real property located in the City, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar year such apartment, room or other residential dwelling rental property.

(B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the City. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of residential real property located in the City. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all personal before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of residential real property in the City.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 1501.99 of this chapter/ordinance:

- (1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof; or
- (2) Makes an incomplete or intentionally false written report required by subsection (a) hereof; or

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(3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or

(4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.

**1501.24 SAVINGS CLAUSE.**

This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, 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/ordinance. It is hereby declared to be the intention of Council that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part hereof, not been included therein.

**1501.25 COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.**

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 1501.12 and Section 1501.99 hereof.

(B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 1501.05 and Section 1501.04 of this ordinance as though the same were continuing.

**1501.26 ADOPTION OF RITA RULES AND REGULATIONS.**

The City hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the City's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of the City Income Tax Ordinance and the RITA Rules & Regulations, the Ordinance will supersede. Until and if the contractual relationship between the City and RITA ceases, Section 1501.26 will supersede all other provisions within Ordinance 2015-104 regarding promulgation of rules and regulations by the Tax Administrator.

**1501.99 VIOLATIONS; PENALTIES.**

(A) Whoever violates Section 1501.17, division (A) of Section 1501.16, or Section 1501.04 by failing to remit City income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee or official of the City, the individual is subject to discharge from employment or dismissal from office.

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(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 1501.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee or official of the City, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 1501.16 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this ordinance;
- (2) File any incomplete or false return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter/ordinance;
- (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
- (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
- (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
- (7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;
- (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
- (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter/ordinance.

(E) Any person who violates any of the provisions in Section 1501.99 (D) shall be subject to the penalties provided for in Section 1501.99 (A) of this chapter/ordinance.