

TITLE SEVEN - Taxation

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CHAPTER 165 Income Tax

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CROSS REFERENCES

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

165.01 DEFINITIONS.

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

- (a) "Adjusted Federal Taxable Income" means a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.
- (b) "Association" means a partnership, limited partnership, limited liability company or any other form of unincorporated enterprise.

- (c) "Board of Review" means the Board created by and constituted as provided in Section 165.13 of this chapter.
- (d) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association, or any other entity.
- (e) "Corporation" means a corporation or joint stock association, including Chapter S Corporations as defined in the federal tax code, 26 U.S.C. 1361, organized under the laws of the United States, the State, or any other state, territory, foreign country, or dependency.
- (f) "Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.
- (g) "Employee" means an individual who receives wages, salary, commission or other type of compensation or other income in the service of an employer.
- (h) "Employer" means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation or other income basis.
- (i) "Fiscal Year" means an accounting period of twelve (12) months or less ending on any date other than December 31st.
- (j) "Gross Receipts" means the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.
- (k) "Income" means all monies derived from any source whatsoever, including but not limited to:
 - (1) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Village of Fayette.
 - (2) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the Village of Fayette.
 - (3) The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Village of Fayette.
- (l) "Municipality" means the Village of Fayette.
- (m) "Net profits" mean, for taxable years prior to 2004, the net gain from the operation of a business, profession, or enterprise, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, and Federal and State and other taxes based on income, and in case of an association, without deduction of salaries paid to partners and other owners; and as otherwise adjusted to the requirements of this chapter and the rules & regulations promulgated by the Municipality. (For taxable years 2004 and later, see "adjusted federal taxable income".)
- (n) "Nonresident" means an individual domiciled outside the Village.
- (o) "Nonresident unincorporated business entity" means an unincorporated business entity not having a place of business within the Village.
- (p) "Other Entity" means any agency, association, authority, body, commission, organization or person not previously named or defined and includes fiduciaries located within the Village.

- (q) "Person" means every natural person, partnership, limited partnership, corporation, fiduciary, or association. Whenever used in any clause prescribing and imposing a penalty, the term person as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- (r) "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.
- (s) "Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Village of Fayette. This definition is effective January 1, 2004.
- (t) "Resident" means an individual domiciled in the Village.
- (u) "Resident unincorporated business entity" means an unincorporated business entity having a place of business within the Village.
- (v) "Taxable income" means income minus the deductions and credits allowed by this chapter. (See "Income" definition.)
- (w) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (x) "Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association, or other entity, required hereunder to file a return or to pay a tax.

The singular shall include the plural and the masculine shall include the feminine and the neuter. (Ord. 2011-02. Passed 4-4-11.)

165.02 PURPOSE; IMPOSITION OF TAX.

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements of the Village of Fayette, Ohio, there hereby is levied a tax upon the earnings at the rate of one and one-half percent (1.50%) upon the following:

- (1) On all qualifying wages, commissions, other compensation and other income earned or received by resident individuals of the Municipality. For further clarification "income" includes, but is not limited to, lottery, gambling, and sports winnings, and games of chance, and no deductions shall be permitted against these sources of income. However, if the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling and sports winnings.
- (2) On all qualifying wages, commissions, other compensation and other income earned or received by nonresident individuals of the Municipality, for work done or services performed or rendered in the Municipality.
- (3) On the net profits attributable to the Municipality, earned or received by all resident unincorporated businesses, professions, and other entities derived from sales made, work done or services rendered or performed and business or other activities conducted in the Municipality.
- (4) On the portion of the distributive share of the net profits earned or received by a resident individual, partner, or owner of a resident unincorporated business entity attributable to the Municipality and not levied against such unincorporated business entity.

- (5) On the net profits attributable to the Municipality earned or received by all nonresident unincorporated businesses, professions, or other activities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality.
- (6) On the portion of the distributive share of the net profits earned or received by a resident individual, partner, or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.
- (7) On the net profits earned or received by all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality.
- (8) The portion of the net profits attributable to the Municipality of a taxpayer conducting a business, profession, or other activity both within and without the boundaries of the Municipality shall be determined as provided in Ohio R.C. 718.
- (9) Pursuant to R.C. 718.01 et. seq. the Municipality does not allow net operating carryforward. (Ord. 2011-02. Passed 4-4-11.)

165.03 EFFECTIVE DATE.

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 1971, and with respect to the net profits of businesses, professions and other activities earned on and after January 1, 1971; provided, however, that where the fiscal year of the business, profession, or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1971, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.
(Ord. 2011-02. Passed 4-4-11.)

165.04 RETURN AND PAYMENT OF TAX.

(a) Each person eighteen years of age or older who is or was a resident of the Village of Fayette at any time during a taxable year, whether or not a tax is due thereon, shall make and file a return on or before April 15 of each year, on a form obtainable from the Village Income Tax Administrator, setting forth the aggregate amount of salary, wages, or other compensation and net profits earned by him during the preceding year or period and subject to said tax, together with other pertinent information as the Village Income Tax Administrator may require. Provided, however, that when the final return is made from a fiscal year or other period different from the calendar year, the return shall be made within 105 days from the end of said fiscal year or other period. Each taxpayer who is required to file a final return shall file with the final return all W-2 statements, 1099 forms, or similar forms which designate the wages, salaries, commissions and other compensation earned.

(b) The return shall also show the amount of the tax imposed on such earnings and profits. The taxpayer making the said return shall, at the time of the filing thereof, pay to the Village Income Tax Administrator the amount of taxes shown as due thereon. Provided, however, that where any portion of said tax shall have been paid by such taxpayer pursuant to the provisions of Section 165.05 and/or Section 165.06, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said final return.

(c) The return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages or compensation of any employee, and paid by him or them to the Village Income Tax Administrator, shall be accepted as the return required of any employee whose sole income subject to the tax as provided in Section 165.02, is such salary, wages or compensation.

(d) Upon written request of the taxpayer, the Village Income Tax Administrator may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Bureau of Internal Revenue for the filing of the federal income tax return.

(e) Any affiliated group of corporations subject to the tax imposed by this Chapter may file a consolidated income tax return only if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(Ord. 2011-02. Passed 4-4-11.)

165.05 COLLECTION AT SOURCE.

(a) Each employer within the Village of Fayette, Ohio, who employs within the Village one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in Section 165.15, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax as provided in Section 165.02, of salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a return and pay to the Village Income Tax Administrator the amount of taxes so deducted as follows:

- (1) For the three months ending March 31st, on or before April 30th;
- (2) For the three months ending June 30th, on or before July 31st;
- (3) For the three months ending September 30th, on or before October 31st;
- (4) For the three months ending December 31st, on or before January 31st.

(b) Said return shall be on a form prescribed by the Village Income Tax Administrator. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the Village of Fayette, Ohio, until payment is made by such employer to the Village of Fayette, Ohio, and any such tax collected by such employer from his employees shall, until same is paid to the Village of Fayette, Ohio, be deemed a trust fund in the hands of such employer.

(Ord. 2011-02. Passed 4-4-11.)

165.06 DECLARATIONS.

(a) Every taxpayer who anticipates any income which is not subject to the provisions of Section 165.05 shall file a declaration of the estimated tax for the taxable year of 1971. Such declaration shall be filed on or before April 15, 1971, and thereafter a similar declaration shall be filed for each calendar year on or before April 15th of each ensuing year for the duration of the taxes referred to herein, by all such taxpayers.

(b) Such declaration shall be filed upon a form prescribed by the Village Income Tax Administrator, which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the federal income tax, provided that it is understood that such figures may be modified according to the provisions of this chapter so that the declaration required by this section shall set forth only such income as is taxable under the provisions of this chapter.

(c) The declaration of estimated tax to be paid to the Village by taxpayers who are individuals shall be filed on April 30th of each year and shall be accompanied by payment of at least one-fourth of ninety percent (90%) of the estimated annual tax, and at least a similar amount shall be paid on or before July 31st, October 31st of such year, and January 31st of the next year.

The declaration of estimated tax to be paid to the Village by corporations and associations shall be filed on April 30th of each year and shall be accompanied by a payment of at least one-fourth of ninety percent (90%) of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15, and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

Provided, however, that such estimate may be amended at the time of the making of any quarterly payment, and further provided that on or before April 15th of the year following that for which such declaration was filed, a final return shall be filed and any balance which may be due the Village of Fayette, Ohio, shall be paid therewith.

Should it appear that such taxpayer has paid more than the amount of tax to which the Village of Fayette, Ohio, is entitled, a refund of the amount so overpaid shall be made, or same may be applied toward the declaration of tax due for the ensuing year.

Claims for refunds shall be made on forms prescribed by and obtainable from the Village Income Tax Administrator.

(Ord. 2011-02. Passed 4-4-11.)

165.07 DUTIES OF THE VILLAGE INCOME TAX ADMINISTRATOR.

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

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

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

(d) 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 Village Income Tax Administrator may determine the amount of tax appearing to be due the Village of Fayette, Ohio, 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.

(e) Subject to the consent of the Board of Review or pursuant to regulations approved by said Board, the Village Income Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

(f) A Department of Taxation is hereby created within the Office of the Village Fiscal Officer of the Village of Fayette. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the Village of Fayette, Ohio, and shall receive such salary as may be determined by Council. The Village Fiscal Officer shall make all appointments of personnel and purchase all equipment, supplies and materials for the Department of Taxation. The Department of Taxation shall be charged with the administration and operation of this chapter, under the direction of the Village Income Tax Administrator. The Village Income Tax Administrator shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayers' returns and declarations and shall be charged with the internal examination of audit of all accounts, and shall exhibit accurate records showing the amount received from each taxpayer and the date of said receipt. The Village Income Tax Administrator shall also make written report to Council annually of all monies collected hereunder during the preceding year.
(Ord. 2011-02. Passed 4-4-11.)

165.08 INVESTIGATIVE POWERS OF THE VILLAGE INCOME TAX ADMINISTRATOR.

(a) The Village Income Tax Administrator or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Village Income Tax Administrator or his duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records, and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with any order or subpoena of the Village Income Tax Administrator authorized hereby shall be deemed a violation of this Chapter, punishable as provided in Section 165.11.

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

(e) Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village of Fayette, Ohio, who violates the provisions of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the Village.
(Ord. 2011-02. Passed 4-4-11.)

165.09 INTEREST AND PENALTIES.

All taxes imposed by this chapter, including taxes withheld from wages by an employer and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of twelve percent (12%) per annum, and the taxpayers upon whom said taxes are imposed, and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter shall be liable, in addition thereto, to a penalty of five percent (5%) of the amount of the unpaid tax for each month or fraction of a month for the first eighteen months of nonpayment, or twenty-five dollars (\$25.00), whichever is the greater. In addition thereto, the taxpayers and employers required to file returns and declarations under this chapter shall be liable to a penalty of twenty-five dollars (\$25.00) for failure to file a return when due, if not more than thirty days late, and fifty dollars (\$50.00) if late thirty days or more. Notwithstanding the preceding sentences, a penalty of one hundred dollars (\$100.00) shall be imposed for any taxpayer who fails to timely file twice in any three-year period. An additional penalty of two hundred dollars (\$200.00) shall be imposed upon a taxpayer to the extent the Village institutes formal legal action to recover the taxes, penalties and interest imposed by Chapter 165 of the Municipal Code. Upon recommendation of the Village Income Tax Administrator, the Board of Review may abate interest or penalties, or both, and upon appeal from the refusal of the Village Income Tax Administrator to so recommend, the Board of Review may nevertheless abate interest or penalty, or both. A fee of twenty-five dollars (\$25.00) will be charged for each check returned to the Income Tax Department by a financial institution as unpaid. (Ord. 2011-02. Passed 4-4-11.)

165.10 COLLECTION OF UNPAID TAXES.

(a) All taxes imposed and administered by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

(b) When a final return is filed as prescribed in Section 165.04 and a deficiency is determined to be due to the Village of Fayette, Ohio, action to collect the same shall not be commenced after three years from the due date of said return, and when a taxpayer fails to file a return, omits twenty-five percent (25%) or more of income required to be reported, or files a fraudulent return, action to collect tax due to the Village of Fayette, Ohio, shall not be commenced after six years from the due date of said return or the date the return was tiled. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Village Income Tax Administrator shall be one year from the time of the final determination of the Federal tax liability.

(c) Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due. (Ord. 2011-02. Passed 4-4-11.)

165.11 VIOLATIONS; PENALTIES.

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

- (1) Failing, neglecting or refusing to make any return or declaration required by this chapter; or
- (2) Making any incomplete, false or fraudulent return; or

- (3) Failing, neglecting or refusing to pay the tax, penalties or interest imposed by this chapter; or
- (4) Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the Village Income Tax Administrator; or
- (5) Refusing to permit the Village Income Tax Administrator or any duly authorized agent or employee to examine books, records, and papers relating to the income or net profits of a taxpayer; or
- (6) Failing to appear before the Village Income Tax Administrator and to produce books, records and papers relating to the income or net profits of a taxpayer under order or subpoena of the Village Income Tax Administrator; or
- (7) Refusing to disclose to the Village Income Tax Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Failing to comply with the provisions of this chapter or any order or subpoena of the Village Income Tax Administrator authorized hereby; or
- (9) Giving to an employer false information as to his/her true name, correct social security number, and residence address, or failing to promptly notify an employer of any change in residence address and date thereof; or
- (10) Failing to use ordinary diligence in maintaining proper records of employees' and residence addresses, total salaries, wages, commissions, other compensation and other income paid and municipal tax withheld, or knowingly giving the Village Income Tax Administrator false information; or
- (11) Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Any person who violates any of the provisions of subsection (a) hereof 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.

(c) All prosecutions under this section must be commenced within two years from the time of the offense complained of, except in the case of failure to file a return, in the case of omission of twenty-five percent (25%) or more of income required to be reported, or in the case of filing a fraudulent return, in which cases the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

(d) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return or declaration, from filing such form, or from paying the tax.
(Ord. 2011-02. Passed 4-4-11.)

165.12 ALLOCATION OF FUNDS.

(a) Generally.

- (1) Two percent (2%) of gross receipts from Village income tax will be allocated into a D-Fund for the use of capital projects. Providing funds for general municipal operations, police and Village capital improvements, including also Water and Sewer Departments of the Village of Fayette, Ohio.

- (2) The collection from the income tax monies on or after January 1, 2008, under the provisions of subsection (a) shall be deposited directly into the Capital Projects Fund.

(b) The funds collected under the provisions of this section not otherwise allocated shall be deposited in the Income Tax Fund and said funds shall be disbursed for the period from March 25, 1988 and until repealed in the following order:

- (1) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.
- (2) Not more than ninety-seven percent (97%) of net available income tax receipts received annually shall be placed in the General Fund to be used to defray operating expenses of the Village.
- (3) At least three percent (3%) of net available income tax receipts received annually shall be set aside and used for capital improvements for the Village including, but not limited to, development and construction of sanitary sewers, storm sewers and street improvements; for public buildings, parks and playgrounds; for equipment necessary for the Police, Fire, Street, Traffic and Safety Departments; for drilling new wells; and for tree planting and/or tree removal.
(Ord. 2011-02. Passed 4-4-11.)

165.13 BOARD OF REVIEW.

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

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

(c) All hearings of the Board shall be conducted privately and the provisions of Section 165.08 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Any person dissatisfied with any ruling or decision of the Village Income Tax Administrator which is made under the authority conferred by this chapter, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Village Income Tax Administrator, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(e) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction or the State Board of Tax Appeals within sixty (60) days from the announcement of such ruling or decision.

(f) The Board of Review, as hereinbefore created, shall serve during the life of this chapter. (Ord. 2011-02. Passed 4-4-11.)

165.14 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm, corporation or to any property as to whom or which it is beyond the power of Village Council of the Village of Fayette, Ohio, to impose the tax herein provided for. If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentence, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of Council of the Village of Fayette, Ohio, that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 2011-02. Passed 4-4-11.)

165.15 EXEMPTIONS.

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

- (a) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard.
- (b) Poor relief, pensions, social security, unemployment compensation, and disability benefits received from private industry or local, state, or federal governments, or from charitable, religious, or educational organizations.
- (c) Dues, contributions, and similar payment received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.
- (d) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events, and health and welfare activities conducted by bona fide charitable, religious, and educational organizations and associations.
- (e) The gross income and gross receipts 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.
- (f) Unemployment insurance benefits, welfare benefits, and pensions paid as a result of retirement.
- (g) Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (h) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation.
- (i) Gains from involuntary conversions, cancellation of indebtedness, interest on federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (j) Earnings and income of all persons under 18 years of age, whether residents or nonresidents.
- (k) Alimony received.
- (l) Compensation paid under Section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.
- (m) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.

- (n) Expenses reported in accordance with federal guidelines for Federal Form 2106, subject to audit and approval by the City Department of Finance.
- (o) Income, 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.
- (P) Salaries, wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in 718.01 R.C., the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the city to impose net income taxes.
- (q) Intangible income.
(Ord. 2011-02. Passed 4-4-11.)

165.16 REFUNDS.

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

(b) All applications for refunds shall be made within three years of due date of final return or shall be forever barred thereafter. Provided, however, an extension may be granted by the Village Income Tax Administrator on written application.

(c) No refund will be made for an amount less than three dollars (\$3.00), and no tax will be payable if the amount owing is less than three dollars (\$3.00).

(d) The following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

- (1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss sustained if no distribution of money and property will be made by the NDCP.
- (2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.
- (3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.
(Ord. 2011-02. Passed 4-4-11.)

165.17 RECIPROCITY PROVISION; CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

Every individual taxpayer who resides in the Village of Fayette but who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or service performed or rendered outside of said Village, if it be made to appear that he has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such net profit, salary, wages, commission or compensation earned in such other municipality or municipalities where such tax is paid. As used in this section, the word "municipality" shall mean city or village but no other political subdivision.
(Ord. 2011-02. Passed 4-4-11.)

165.18 EFFECTIVE PERIOD.

This chapter shall continue effective insofar as the levy of taxes is concerned from January 1, 1971 until repealed. Said chapter, insofar as the collection of taxes levied in the aforesaid period, and actions or proceedings for collection of any tax so levied, or enforcing any provisions of said chapter are concerned, shall continue effective until all of said taxes levied in the aforesaid period 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 be have been fully terminated.
(Ord. 2011-02. Passed 4-4-11.)