

**TITLE NINE – Taxation**  
Chap. 181. Income Tax.  
Chap. 185. Hotel Excise Tax

**CHAPTER 181**  
Income Tax

181.01 Definitions.	181.08 Allocation of funds.
181.02 Levy; procedures.	181.09 Credits for tax paid to another city.
181.03 Returns and payments.	181.10 Mandatory registration.
181.04 Collection at source.	181.11 Income Tax Bureau
181.05 Declarations.	181.12 Board of Review.
181.06 Interest and penalties.	181.99 Penalty.
181.07 Collection of unpaid taxes; refunds of overpayment.	

**CROSS REFERENCES**

Payroll deductions – see Ohio R.C. 9.42  
Municipal income taxes – see Ohio R.C. Ch. 718  
State income tax – see Ohio R.C. C. 5747

**181.01 DEFINITIONS.**

For the purposes of this chapter the following words shall have the meanings indicated unless their context clearly requires otherwise:

- (a) **“Association”** A partnership, limited partnership, limited liability company, Subchapter S corporation as defined in the federal tax code, or any form of unincorporated entity, owned by two or more persons.
- (b) **“Board of Review”** The Board created by and constituted as provided in Section 181.12.
- (c) **“Business”** An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, fiduciary, trust, corporation or any other entity.
- (d) **“Chapter”** Means Chapter 181 of the Codified Ordinances of the City of Heath, Ohio.
- (e) **“City”** Means City of Heath, Ohio.
- (f) **“Compensation”** Shall include, gross salaries, wages, commissions, vacation pay, sick pay (including 3<sup>rd</sup> party), holiday pay, bonuses, monetary value of awards and prizes related to employment, tips or gratuities, severance or

termination pay, supplemental unemployment pay, strike pay, wage continuation agreements, group term life insurance premiums paid on an employee's behalf for coverage of \$50,000 or more, ordinary income portion of stock options or employee stock purchase plans, or any other remuneration paid in cash or in property, or any other income from any source not specifically exempted by this chapter or O.R.C. 718. That portion of gross pay that may be deferred under a federally recognized plan is subject to taxation and withholding. The term compensation as used in this Chapter shall not be limited to the items specifically set forth in this section.

- (g) **“Corporation”** A corporation of joint stock association organized under the laws of the United States, the State of Ohio or any other state or territory or any foreign country or dependency, but not including Subchapter S Corporations.
- (h) **“Domicile”** Having a principal place of residence, employment or business within the city limits. A place where an individual has his true, fixed and permanent legal residence. An individual may have more than one residence but not more than one domicile. Domicile is that property that is held out as the “home” address for one or more of the following. 1. Federal and state tax returns. 2. Employment, credit or banking purposes. 3. Auto registration. 4. Drivers license. 5. Children's education. 6. Voter registration.
- (i) **“Employee”** Any person who works for wages, salary, commission or any other type of compensation in the service and/or under the control of an employer. Any person for whom an employer is required to withhold either federal income tax or social security tax or on whose account payments are made under the workman's compensation law shall be prima-facie be an employee.
- (j) **“Employer”** An individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage, commission or other compensation basis.
- (k) **“Fiscal year”** An accounting period of 12 months or less ending on any other day other than December 31.
- (l) **“Gross receipts”** The total income from any source whatsoever, before any deductions, exceptions or credits are claimed.
- (m) **“Net profits”** The net gain from the operation of a business, profession, enterprise or other activity whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting method used by the taxpayers for federal income tax purposes without deduction of taxes imposed by this chapter, federal, state and other taxes based on income, and in the case of an association, without deduction of salaries/draws paid to partners and other owners; and otherwise adjusted to the requirements of this chapter. Net profits shall include any amount recognized as ordinary gains from the recapture of accelerated depreciation from the sale or other disposition of tangible personal property or real property used in business. A “ R.E.I.T.”

shall be taxed as an entity on net profits before deductions of net operating loss or dividends paid to owners/members.

- (n) **“Nonresident”** A person, individual, association, corporation or any other entity that is not domiciled within the City, does not have an office or place of business within the City.
- (o) **“Organization”** A corporation for profit or not for profit, a partnership, limited partnership, limited liability company, joint venture, unincorporated association, estate, trust or other commercial or legal entity organized as or by a governmental agency for the execution of a government program.
- (p) **“Other entity”** A person or any body not previously named or defined and including inter alia, fiduciaries.
- (q) **“Other payer”** Any person that pays an individual any item included in the taxable income of the individual, other than the individual’s employer or that employer’s agent.
- (r) **“Owner”** A partner or member of a partnership, subchapter S corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (s) **“Person”** Every natural person, organization, partnership, fiduciary, association, business, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof.
- (t) **“Place of Business”** Any bona fide office (other than mere statutory office) factory, warehouse or other place, which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.
- (u) **“Resident”** A person, whether an individual, association, corporation or other entity domiciled in the City, having an office or place of business within the City.
- (v) **“Taxable income”** Shall include and is not limited to compensation (as defined in this chapter); gross income (from any source whatsoever) minus the deductions and credits allowed by this chapter, includes wages; salaries; commissions and other compensation paid by an employer or employers before any deductions to include all compensation that is no longer considered to be at substantial risk of forfeiture to the employee; income from a covenant not to compete agreement; jury duty pay; guardian, executor, conservator, trustee, or administrator fees; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by the IRS; and/or the net profits from the operation of and/or the complete or partial sale or disposition of the assets of a business, profession, association, or other enterprise or activity resulting in ordinary gain as adjusted in accordance with the provisions of this chapter.
- (w) **“Tax Commissioner”** The Tax Commissioner of the City or the person executing the duties of the aforesaid Commissioner.

- (x) **“Tax year”** The calendar year, or the fiscal year ending during such calendar 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 made.
- (y) **“Taxpayer”** means an association, business, organization, corporation, employer, person, or any other entity required by this chapter to file a return, form or document, and whether or not a tax is due thereon.  
(Ord. 81-88. Passed 11.7.88.)

**181.02 LEVY; PROCEDURES.**

- (a) Imposition of Tax. Subject to all other provisions of this chapter, an annual tax is hereby levied at the rate of one and one-half percent (1 1/2%) per annum upon the following:
  - (1) On all compensation and/or taxable income earned, received, accrued or other wise set apart, (unless specifically exempted by this chapter) to residents of the City.
  - (2) On all compensation and/or taxable income (unless specifically exempted by this chapter) earned, received, accrued or otherwise set apart to nonresidents of the City for work done or services performed or rendered within the City.
  - (3) A. On the net profits earned, received, accrued or in any other way set apart unto all resident 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 City.  
 B. On the portion of the distributive share of the net profits earned, received, accrued or in any other way set apart unto a resident partner, member or owner of a resident association or unincorporated business entity not attributable to the City and not levied against such association or unincorporated business entity.  
 C. On the portion attributable to the City of the net profits earned, received, accrued or in any other way set apart unto 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 City, whether or not such unincorporated business, profession or other entity has a place of business in the City.  
 D. On the portion of the distributive share, whether or not distributed, of the net profits earned, received, accrued or in any other way set apart unto a resident partner, member or owner of a nonresident association or unincorporated business entity not attributable to the City and not levied against such association or unincorporated business entity.  
 E. On the net profits of all corporations, estates and trusts, derived from sales made, work done, services rendered or performed and business or other activities conducted in the City, whether or not such corporations, estates, and trusts have their principal or any place of business located in the City.

F. On a resident's entire share, whether distributed or not, of the net profits of a subchapter S corporation as defined in Section 1361 of the Internal Revenue Code, for which the tax imposed by this chapter has not already been levied against. The tax imposed by this paragraph is effective for all accounting periods commencing on or after January 1, 2002.

(b) Allocation of Net Profits.

- (1) Where a taxpayer conducts a business both within and outside the City, the portion of the entire net profits of such business to be allocated as having been made within the City may be determined from the records of such business, if such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the City, or, may be determined by the following formula, which shall be used if the taxpayer has no bona fide records showing net profits from City business activities, subject, however, to the provisions of subsection (b)(4) hereof;
- (2) Multiply the entire net profits of the business by a business allocation percentage to be determined by:
  - A. Ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the City, during the period covered by the return, is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period.
  - B. Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the City, during the period covered by the return, is of the total gross receipts from all sales and services, wherever made or performed, during such period.
  - C. Ascertaining the percentage which the total wages, salaries, commissions and other compensation paid, during the period covered by the return, to employees for service performed in the City is of the total wages, salaries, commissions and other compensation paid, during such period, to all employees within and outside the City.
  - D. Adding together the percentage determined in accordance with paragraphs A. B. and C., above or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.
- (3) A factor is applicable even though it may be allocated entirely in or outside the City.
- (4) Provided, however that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer, or the Tax Commissioner, shall, under

uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper allocation. (Ord. 81-88. Passed 11-7-88.)

(c) Operating Loss Carry Forward.

- (1) Commencing with taxable years beginning subsequent to December 31, 2000, if a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.
- (2) The portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.
- (3) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporations may not be taken into consideration in computing net profits or business allocation percentage formula.
- (4) In the case of an Individual who runs two or more businesses as individual proprietorships, loss from once such business may be set off against the net profits of the other (but not against salaries, wages or other personal services compensation). The one and one half (1 ½%) tax shall be levied on the final net business income of the individual proprietor.

(Ord. 73-00. Passed 11-6-00.)

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Commissioner.
- (2) 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, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Tax Commissioner finds 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 some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the City.

(e) Deduction of non-reimbursed employee business expense.

- (1) An employee who pays his business expenses from his wages, salaries, commissions or other compensation, without reimbursement from his employer, may deduct from his gross wages, salaries, commissions or other compensation business expenses reported on Federal Form 2106, but only to the extent that such expenses were directly incurred in earning the income subject to the tax imposed by this chapter. Deduction shall be allocated first to the municipality where the employment occurred, whether or not a refund from the employment municipality was requested or received. Substantiation of expenses reported is required.

(f) Rental Income from real property. Rental income from real property shall be taxed as follows.

- (1) The rental, ownership, management or operation of rental property shall be considered a business, regardless of whether the property is residential, commercial or farm property and therefore subject to the requirements of this chapter, including the filing of tax returns on rentals that sustain a net operating loss.
- (2) Rental income received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- (3) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any other types of real estate.
- (4) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as allowed by the Internal Revenue Service for federal tax purposes.
- (5) Residents of the City are subject to taxation upon the net income from rental property regardless of where the property is located.
- (6) Nonresidents of the City are subject to taxation only if the real property is situated within the City boundaries.
- (7) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the terms of which the lessor performs no services of any type, including the payment of taxes on the property.
- (8) Corporations owning or managing real estate are taxed only on that portion of income derived from property located in the City.

(g) Patents and copyrights.

- (1) Income from a patent or a copyright is not taxable if the income is subject to the State intangible tax. Such items shall be clearly disclosed on an attachment to be filed with the City tax return.

(h) Exemptions. The tax provided for in subsection (a) hereof shall not be levied upon the following:

- (1) Pay or allowance of active members of the Armed Forces of the United States by the person rendering such service or as a result of another person rendering such service. However spouses or other family members not on active duty will be subject to all provisions of the Tax Ordinance.
- (2) Welfare payments, pension payments received as a result of retirement, State unemployment compensation, social security benefits, worker's compensation.
- (3) 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.
- (4) Alimony received.
- (5) Income dues, contributions and receipts from casual entertainment, amusements, sports events and health and welfare activities received by religious, fraternal, bona fide charitable, scientific, literary or educational institutions or organizations, labor unions, lodges and similar organizations.
- (6) Any association, organization, corporation, club or trust which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary or scientific purpose; any such association or

organization falling in this category shall be required to file declarations and final returns and remit the taxes levied under this chapter on all net profits from activities, the income from which is not specifically exempt from taxation under the Ohio Revised Code, Section 718.01.

- (7) Gains from involuntary conversion, cancellations of indebtedness, interest on Federal obligations, dividend income subject to Ohio intangible property tax, interest income from institutions, which pay the Ohio intangible property tax thereon, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (8) The income of individuals under sixteen (16) years of age whether a resident or nonresident. All provisions of this chapter apply on and after the individual's sixteenth birthday.
- (9) In the case of a minister of the gospel, gross income does not include the rental value of a home furnished to him as part of his compensation, or the rental allowance paid to him as part of his compensation, to the extent used by him to rent or provide a home.
- (10) Salaries, wages, commissions, other compensation, other income 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.
- (11) Salaries, wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in Ohio Revised Code, Section 718.01, 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.
- (12) On or after January 1, 2001, compensation paid to a nonresident individual for personal services performed by the individual in the City on twelve (12) or fewer days in a calendar year unless one of the following applies:
  - (A) The individual is the employee of another person; the principal place of business of the individual's employer is located in another municipal corporation in this State that imposes a tax applying to the compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.
  - (B) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event and their employees.

For purposes of the 12-day calculation, any portion of a day worked in the City shall be calculated as one day worked in the City. This section is effective January 1, 2001.

### **181.03 RETURNS AND PAYMENTS.**



- (a) Required. Each person who is engaged in business, or whose salary, wages, commissions or other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a City income tax return, on or before April 15 of each year (effective with the 2002 tax year), with the Tax Commissioner. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective date of this chapter, file his return within four months from the end of such fiscal year period. In the case of a nonresident individual whose sole source of income derived from inside the City limits is subject to full withholding of the tax by an employer, the employee shall not be required to file an annual tax return, however, if any employer fails to properly withhold the tax on all taxable compensation, the employee shall file a City income tax return and pay the tax due.
- (1) The return shall be accompanied by payment of any amount due thereon.
  - (2) All taxes due under the provisions of this chapter for net profits attributable to the year preceding shall be calculated on the entire income for such year.
  - (3) All residents of the City, who are (16) years of age or older, shall make and file an annual return.
  - (4) The City will accept generic forms for estimated payments, the annual income tax return and the declaration of estimated tax. However, to be acceptable, the generic form must contain all the information required on forms supplied by the City and must be similar in format that will allow processing of the generic forms without changing the City's existing procedures for processing forms. Determination of whether or not a generic form meets this criterion shall be the responsibility of the Tax Commissioner.
- (b) Each return must set forth the following.
- (1) The aggregate taxable income, earned during the preceding year and subject to such tax;
  - (2) The amount of tax imposed by this chapter on such taxable income adjusted by any applicable credits for city taxes paid elsewhere; and
  - (3) Such other pertinent statements, information, with copies of Federal schedules to support the figures used to arrive at the amounts for filing the City income tax return, with such other pertinent statements, information, copies of other City tax returns, or other information as the Tax Commissioner may require, adjusted to set forth only such income as is taxable under the provisions of this chapter.
- (c) **EXTENSIONS.** A taxpayer may request an extension for the filing of a City income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the

office of the City Tax Commissioner. The request for extension shall be filed not later than April 15, or the last day for filing the City income tax return as prescribed by this Ordinance. An extension shall be granted for a period equal to the federal extension period and may be granted up to an additional 30 days beyond the federal extension period if requested in writing. The City may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the federal extension request, owes the City any delinquent tax, penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a City income tax return does not extend the last date for paying the tax without penalty and interest. The filing due date for the current year declaration is not included under the extension request.

- (d) (1) A taxpayer making a return shall at the time of the filing thereof, pay to the City the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source, or where any portion of the tax shall have been paid by the taxpayer, or where an income tax, creditable against the City tax has been paid to another City, pursuant to the provisions of Section 181.09, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any and if \$5.00 or greater, shall be due and payable at the filing of such return.
- (2) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter 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 there is no other tax, penalty or interest liability and provided, further, that no amount of less than five dollars (\$5.00) will be collected, carried forward or backward, or refunded. No refund shall be made to any taxpayer until he has complied with all provisions of this Chapter and has furnished all information, documentation or substantiation required by the Tax Commissioner. No refunds will be allowed for City residents on income received, accrued or paid for vacation days, sick days, holidays, personal days, or any other paid days off. No refunds will be allowed for nonresident individuals for vacation days, sick days, (including 3<sup>rd</sup> party sick pay), holiday's, personal days, severance pay, wage continuation pay, or other paid days off, but shall be allowed for performance of duties outside the City.
- (3) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following said Saturday, Sunday or federal holiday without penalty.
- (4) The Tax Commissioner is authorized but is not required to arrange for the payment of unpaid taxes, penalties and interest on a schedule of

installment payments, when the taxpayer has proved to the Commissioner that, due to certain hardship conditions, he is unable to pay the full amount due. Such authorization shall not be granted until the taxpayer files proper returns for all amounts owed by him under the ordinance.

- (5) All returns postmarked by the United States Postal Service on the official due date of the return will be considered received by the City on that due date. All returns delivered to the City not using the United States Postal Service will be considered received by the City on the date delivered.
- (e) All provisions of this chapter apply to filing an amended return.
  - (1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid. Such amended return shall be on a form obtainable on request from the Tax Commissioner (or acceptable generic form).
  - (2) 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 a claim for refund of any overpayment.
- (f) All individuals, businesses, employers, brokers or others doing business who engage persons, either on a commission basis, or as independent contractors, and are not subject to withholding shall indicate the total amount of earnings, payments, commissions and bonuses to such as are residents of the City or who do business in the City; providing the same information as is required on Federal Form 1099.
- (g) All contractors, subcontractors or any other person as defined herein, shall indicate the total amount of payments to any subcontractor or contract employee, who did business in, or is a resident of the City, and shall attach a list which shall indicate names, addresses and amounts paid. (Ord. 81-88. Passed 11-7-1988.)

#### **181.04 COLLECTION AT SOURCE.**

- (a) Each employer, unless otherwise prohibited by law, within or doing business within the City who employs one or more persons on a salary, wage, commissions or other compensation basis shall deduct at the time of the payment of such salaries, wages, commissions or other compensation, the tax of one and one-half percent (1½%) of the gross salaries, wages, commissions or other compensation due by such employer to each such employee and shall, on or before the last day specified below during the effective period of this chapter, make a return and pay to the Tax Commissioner the amount of taxes so deducted

during the preceding calendar month or quarter. Such return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner.

- (1) Monthly payments of taxes withheld and/or required to be withheld shall be made by an employer if the taxes withheld in the prior calendar year were more than one thousand, one hundred ninety- nine dollars (\$1,199.00) *or* if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be made to the City on or before the last day of the month following the month during which the undeposited taxes were withheld.
- (2) All employers not required to make monthly payments of taxes withheld under subsection (a)(1) hereof, shall make quarterly payments no later than the last day of the month following the end of each quarter (April, July, October, and January) of each year.
- (3) Effective January 1, 2001, a nonresident employer, agent of such employer, or other payer that is not situated in the City and is not currently required to withhold City income tax, shall not be required to withhold City tax from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the City on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year.

When the collective tax liability exceeds \$150.00, the employer is required to begin withholding the appropriate City tax on behalf of all the employees performing work or rendering services in the City for the remainder of that calendar year and for subsequent years, even if the liability in subsequent years does not exceed \$150.00. However, if the tax liability for each of three (3) consecutive years does not exceed \$150.00, the City shall not require the employer, agent or other payer to deduct and withhold City tax in any year following the last of those consecutive years unless the amount required to be deducted and withheld in any such following year exceeds \$150.00.

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

(c) It shall be the responsibility, jointly and severally, for the president and treasurer or senior local administrative agent of each corporation, required to withhold the tax from the

wages of its employees, under this section, to see that all such taxes are paid to the City in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the City in accordance with the provisions of this section, the president and treasurer or senior local administrative agent of such corporation shall be criminally liable.

- (d) Each employer, on or before the last day of February each year, unless written request for thirty (30) days extension is made to and granted by the Tax Commissioner or his agent, following any calendar year in which such deductions have been made, or should have been made, shall file a withholding information return, on a form prescribed by or acceptable to the Tax Commissioner, setting forth the names, social security numbers and addresses of all employees, the gross amount of compensation paid during the year, and the amount of tax withheld from the listed employees and such other information as may be required by the Tax Commissioner.
- (e) Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. (Ord. 133.95. Passed 11-20-1995)

#### **181.05 DECLARATIONS.**

- (a) Every person who anticipates any taxable income which is not subject to Section 181.04, or who engages in any business, profession, enterprise or activity shall file a declaration setting forth such estimated income, or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any, and if the amount can be reasonably expected to exceed one hundred dollars (\$100.00).
- (b) (1) Such declaration shall be filed on or before April 15 (effective 1/1/03) of each year during the life of this chapter, or within four months of the date the taxpayer first becomes subject to the provisions of this section.  
(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the start of each fiscal year or period.
- (c) (1) Such declaration shall be filed upon a form prescribed by or acceptable to the Tax Commissioner. Credit shall be taken in such declaration for the City tax to be withheld from any portion of such income and for income taxes to be paid to another taxing city for which credit is allowed against the Heath City tax.  
(2) A declaration of estimated tax paid to the City shall be accompanied by a payment of at least one-fourth of the estimated tax; less credit for tax withheld or paid to another city and at least a similar amount shall be paid

on or before the last day of the seventh, tenth and twelfth month after the beginning of the tax year.

- (3) A declaration may be amended at any time, provided, however, that in the case an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (d) An amended declaration must be filed on or before December 31, of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the dates fixed by the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayer's income by ten percent (10%) or more. At such time a payment which, together with prior payment, is sufficient to pay the taxpayer's entire estimated liability, shall be made. If, upon the filing of the return it appears that the taxpayer did not pay ninety percent (90%) of his tax liability, as shown on such return, on or before December 31, or the date fixed by the Tax Commissioner, whichever is applicable, he shall be subject to the interest and penalty provisions. (Ord. 132-95. Passed 11-20-95.)

#### **181.06 INTEREST AND PENALTIES.**

- (a) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of one and one-half percent (1½%) per month or fraction thereof.
- (b) In addition to interest as provided in subsection (a) above, penalties based on unpaid tax from taxpayers, monies withheld or required to be withheld by employers under the provisions of this chapter, and for failure to file returns or information filings as required under the provisions of this chapter, are hereby imposed as follows:
- (1) For failure to pay taxes due, other than taxes withheld, ten percent (10%) of the total tax due.
  - (2) For failure to remit taxes withheld or required to be withheld, five percent (5%) per month up to a maximum of one hundred percent (100%) of the total tax due.
  - (3) For failure to file a declaration of estimated tax, five dollars (\$5.00) per quarter of any reporting year.
  - (4) For failure to file a yearly final return, twenty-five dollars (\$25.00).
  - (5) For failure to file employer's reconciliation of income tax withheld, twenty-five dollars (\$25.00).
- (c) A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further, that, in the absence of fraud, neither penalty or interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

- (d) The Tax Commissioner may abate penalties and interest imposed by this section, and may promulgate reasonable rules and regulations governing the abatement of penalties and interest. Such abatement is authorized whether in part or in full.  
(Ord. 88-00. Passed 12-18-00).

**181.07 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENT.**

- (a) All Taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit the same as other amounts owed in other matters are recoverable. No additional assessment shall be made after three years from the time of payment of any tax due hereunder; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. Prosecutions may be commenced within six years after the commission of the offense. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended one year from the time of the final determination of the Federal tax liability.
- (b) 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 final determination of the Federal tax liability, whichever is later.  
(Ord. 81.88. Passed 11.7.88.)

**181.08 ALLOCATION OF FUNDS.**

The revenues collected under the provisions of this chapter are hereby allocated to the General Fund and Capital Improvements Fund. Each year Council shall appropriate from such funds the amounts of money it determines are necessary for current operating expenses.

(Ord. 110-92. Passed 11-16-92.)

**181.09 CREDITS FOR TAX PAID TO ANOTHER CITY.**

- (a) Every individual taxpayer who resides in the City and who receives salaries, wages, commissions or other compensation or net profits from sales made, work done, or services performed or rendered outside of the City, if it is established with supporting documentation that said income is subject to municipal income tax in another city, or if it can be demonstrated that said taxpayer has paid a municipal income tax based on income taxable under this chapter, shall be allowed a credit for the amount so paid to such other city. The credit shall not exceed 1.25% of the income subject to the tax of such other municipality. The credit shall not be allowed for taxes erroneously paid to another municipality. If it is

established that said tax was withheld or paid to a municipality, but that the taxpayer had no legal obligation to pay said tax, no credit for said tax shall be permitted.

- (b) A resident of the City who has sustained a net loss arising from a business activity in another municipality shall be subject to the same reduction. Eighty-three percent (83%) of said loss can be used to offset other taxable business income.
- (c) No credit shall be given for any tax paid to a school district, county, state or federal taxing authority.
- (d) A partial year resident must pro-rate credit for taxes owed and paid to another municipality, reflecting the applicable credit for the income taxed while the taxpayer was a resident of the City.

**181.10 MANDATORY REGISTRATION.**

- (a) Each new resident of the City shall register with the Tax Commissioner within thirty days of residence in the Municipality.  
All residents of the City shall return the resident survey/questionnaire form within thirty days of the date of form.
- (b) All employers, contractors or subcontractors who do work in the Municipality shall register with the Tax Commissioner and shall present a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the City income tax.  
All business and individual questionnaires must be returned within thirty days from the date of the form.
- (c) All landlords who rent and/or lease property in the City shall submit an up-to-date list of their tenants to the Tax Commissioner of this Municipality upon request of the Tax Commissioner, within thirty days of the request.
- (d) Whoever violates these sections shall be subject to a fine of five dollars (\$5.00) a day for each day they remain in violation.  
(Ord. 81-88. Passed 11-7-88.)

**181.11 INCOME TAX BUREAU.**

- (a) Establishment; Composition. There is hereby created an Income Tax Bureau under the direction of the City Auditor, to be composed of a Tax Commissioner and such other personnel as Council may approve.
- (b) Tax Commissioner; Powers and Duties.
  - (1) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter, in the manner prescribed herein, and to keep an accurate record thereof, and to report all money's so received. The Tax Commissioner shall, daily, transmit all moneys collected during the preceding day to the City Auditor, in a manner and upon the forms prescribed by the City Auditor.
  - (2) It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the City, to keep accurate records, for a minimum of six years, showing the amount due from each taxpayer required to file a



declaration or make any return, including a return of taxes withheld, and to show the date and amounts of payments thereof.

- (3) The Tax Commissioner is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter including provisions for reexamination and correction of returns.
- (4) In any case where a taxpayer has failed to file a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the City from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (5) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this chapter.

(c) Investigation.

- (1) The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer, taxpayer or any person subject to, or whom the Tax Commissioner believes is subject to the provisions of this chapter for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.
- (2) The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned for taxation, withheld, or any transaction tending to affect such income, and for this purpose may compel the production of papers, books, records and Federal income tax returns and the attendance of all person before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- (3) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by an employer or person subject or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Commissioner authorized hereby shall be deemed a violation of this section.

- (4) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six years from the date his return is filed, or the taxes required to be withheld are paid.
- (5) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential and no disclosure thereof shall be made except to municipal, county, State or Federal taxing agencies, or except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall be guilty of a misdemeanor of the third degree. 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 disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
- (d) Bonding Requirement. The following officers and employees of the City shall be bonded as established by the Council, according to guidelines established by the State: the City Auditor; the Tax Commissioner of the Income Tax Bureau; and Clerks of the Income Tax Bureau.  
(Ord. 81-88. Passed 11-7-88.)

**181.12 BOARD OF REVIEW.**

- (a) Created; Appointment. A Board of Review consisting of three persons, appointed by the Mayor, is hereby created. Persons appointed pursuant to this section shall be appointed for a three -year term and shall continue in office until his successor is appointed. Members of the Board of Review shall not hold any other municipal office, appointment or employment, and shall be electors of the Municipality. The members shall elect a chairman by a majority vote.
- (b) Quorum; Hearing; Confidentiality. 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. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Tax Appeals created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.
- (c) Appeals. Whenever the Tax Commissioner issues a decision regarding a municipal income tax obligation that is subject to appeal as provided for in this chapter, the Tax Commissioner shall notify the taxpayer at the same time, of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- (1) Any person dissatisfied with any ruling or decision of the Tax Commissioner, which is made under the authority conferred by this chapter, and who has filed the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the ruling or decision to the Board created pursuant to this section by filing a request with the Board through the Office of the Tax

Commissioner. The request shall be in writing, shall state why the ruling or decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner issues the ruling or decision.

- (2) Upon the filing of such appeal, the Tax Commissioner shall forthwith notify the member of the Board of such appeal and the Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, a certified public accountant or other representative.
- (3) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

**181.99 PENALTY.**

- (a) Any person who shall:
  - (1) Fail, neglect or refuse to make any return, declaration or registration required by this chapter; or
  - (2) Make an incomplete, false or fraudulent return; or
  - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
  - (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
  - (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers and Federal income tax returns; or
  - (6) Fail to appear before the Tax Commissioner and to produce his or his employer's books, records, papers or Federal income tax returns upon order or subpoena of the Tax Commissioner; or
  - (7) Refuse to disclose to the Tax Commissioner any information with respect to such persons or such person's employer's income or net profits; or
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner; or
  - (9) Fail, neglect or refuse to make any payment on the estimated tax for any year;
  - (10) Fail, as president, treasurer or senior local administrative agent of a corporation to cause the tax withheld from the wages of the employees of such corporation pursuant to this chapter to be paid to the City; or
  - (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; shall be guilty of a misdemeanor of the second degree.

- (b) (1) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.
  - (2) Prosecutions for an offense, made punishable under a municipal 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 (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (c) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
- (d) The term “person” as used in this chapter, shall, in addition to the meaning prescribed in Section 181.01, include in the case of an association or corporation not having any partner, member or officer within the City, any employee or agent of such association or corporation who can be found within the corporate limits of the City.  
(Ord. 81-88. Passed 11-7-88.)