

TITLE NINE - Taxation
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CHAPTER 181
 Income Tax

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CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3
 Taxation limitation for debt purposes - see CHTR. Sec. 16.02
 Taxation limitation for current operating purposes - see CHTR. Sec. 16.03
 Other tax levies - see CHTR. Sec. 16.04
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718

181.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Municipality there shall be, and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.
 (Ord. 234-5. Approved by voters 3-25-69.)

181.02 DEFINITIONS.

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

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- (b) "Board of Review" means the Board created by and constituted as provided in Section 181.13.
- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, copartnership, association, corporation or any other entity.
- (d) "Commissioner of Taxation" means the person so designated and appointed by the Mayor and approved by Council, or the person executing the duties of the Commissioner as agent for such parties.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other State, territory or foreign country or dependency.
- (f) "Employer" means an individual, co-partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.
- (h) "Net profits" means the net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expense either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes and, in the case of an unincorporated entity, without deduction of salaries paid to partners or other owners, or of taxes imposed by this chapter and Federal and other taxes based on income.
- (i) "Nonresident" means an individual domiciled outside of the Municipality.
- (j) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
- (k) "Person" means every natural person, co-partnership, fiduciary, association or corporation. When used in any clause prescribing and imposing a penalty, the term "person" as applied to association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
- (l) "Resident" means an individual domiciled in the Municipality.
- (m) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
- (n) "Taxable year" means 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. Unless approved by the Commissioner of Taxation, the taxable year of an individual shall be a calendar year.
- (o) "Taxpayer" means a person, whether an individual, co-partnership, association or any corporation or other entity required hereunder to file a return or pay a tax. The singular shall include the plural, and the masculine shall include the feminine and neuter. (Ord. 234-5. Approved by voters 3-25-69.)
- (p) "Wages" means qualifying wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Ohio R.C. 718.03(A). (Ord. 45-11. Passed 9-20-04.)

181.03 IMPOSITION OF TAX.

(a) An annual tax for the purposes specified in Section 181.01 shall be imposed on and after April 1, 1969, at the rate of one percent per year upon the following:

- (1) All salaries, wages, commissions and other compensation earned on and after April 1, 1969 by residents.
- (2) All salaries, wages, commissions and other compensation earned on and after April 1, 1969, by nonresidents for work done or service performed or rendered in the Municipality.
- (3)
 - A. On the portion attributable to the Municipality of the net profits earned on and after April 1, 1969, of all resident unincorporated business rendered and business or other activities conducted in the Municipality.
 - B. On the portion of the distributive share of the net profits earned on and after April 1, 1969, of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.
- (4)
 - A. On the portion attributable to the Municipality of the net profits earned on and after April 1, 1969 of all nonresident unincorporated business, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.
 - B. On the portion of the distributive share of the net profits earned on and after April 1, 1969, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.
- (5) On the portion attributable to the Municipality of the net profits earned on and after April 1, 1969 of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

(b) 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. 718.02 and in accordance with the rules and regulations adopted by the Commissioner of Taxation pursuant to this chapter.

(c) Exceptions. The tax provided for herein shall not be levied upon minors under eighteen years of age or the military pay or allowance of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempt from municipal income taxes under such section.

(Ord. 234-5. Approved by voters 3-25-69; Res. 249-5. Passed 4-7-69.)

181.04 EFFECTIVE DATE.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after April 1, 1969, and with respect to the net profits of businesses, professions or other activities earned on and after April 1, 1969. (Ord. 234-5. Approved by voters 3-25-69; Res. 249-5. Passed 4-7-69.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer or person who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15, and on or before April 15 for each year thereafter with the Commissioner of Taxation on a form or forms furnished by or obtainable upon request from the Commissions setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned by him, and/or gross income from such business less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and (Ord. 234-5. Approved by voters 3-25-69.)
- (3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Commissioner of Taxation may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(b) When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or other period.

(c) The Commissioner of Taxation may extend the time for filing of the annual return upon the request of the taxpayer. If the request is granted, the extended due date of the municipal income tax return for any taxpayer that has requested an extension for filing a federal income tax return shall be the last day of the month following the month to which the due date of the federal return has been extended. Any taxpayer not required to file a federal tax return may be granted an extension for a period not to exceed six months. (Ord. 45-11. Passed 9-20-04.)

(d) The return shall also show the amount of the tax imposed by this chapter on such earnings and profits. The taxpayer making such return shall, at the time of the filing thereof, pay to the Commissioner of Taxation the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 181.06, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 181.07, 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 the return.

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

- (1) The claiming of credit on a return or declaration for amounts paid to any other municipality under the provisions of Section 181.07 shall constitute an assignment and transfer to the Municipality of all right, title and interest of the taxpayer claiming such credit in and to any claim for refund of such amounts so paid to such other municipality. In the event a refund is not received by the Municipality in an amount equal to the credit claimed by reason of tax payments made to another municipality and subject to reciprocity, then the taxpayer shall be liable to the Municipality for and as taxes due from the date of the filing of such return upon which such credit was claimed of the amount by which the claimed credit exceeds the amount of refund received by the Municipality.
- (2) Assignment of any claim for refund to which a resident may be entitled from any municipality shall be tentatively accepted as payment of that portion of Municipal income tax represented by such assignment. Provided, however, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

(e) The Commissioner of Taxation is hereby authorized to provide by regulation, subject to the approval of the Board of Review, that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Commissioner of Taxation shall be accepted as the return required of any employee whose sole income subject to the tax or taxes under this chapter, is such salary, wages, commissions or other compensation.

(f) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Municipality constituting a portion only of its total business, the Commissioner of Taxation shall require such additional information as may be necessary to ascertain whether net profits allocable to the Municipality are being distorted by the shifting of income, apportionment of expenses or other devices available to a common control. If the Commissioner finds that a person's net profits allocable to the Municipality are distorted by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall adjust such transactions so as to produce a fair and proper allocation of net profits to the Municipality. If necessary, the Commissioner may require the filing of a consolidated return.

(g) A taxpayer who has overpaid the amount of tax to which the Municipality 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 that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
(Ord. 234-5. Approved by voters 3-25-69.)

181.06 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Commissioner of Taxation the amount of taxes so deducted. Such return shall be on a form or forms prescribed by or acceptable to the Commissioner and shall be subject to the rules and regulations prescribed therefor by him.

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

(c) However, 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. 234-5. Approved by voters 3-25-69.)

181.07 DECLARATIONS.

(a) Every taxpayer or person who anticipates any taxable income in excess of ten thousand dollars (\$10,000) which is not subject to Section 181.06, 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.

(b) Such declaration shall be filed on or before April 15 of each year.

(c) Such declaration shall be filed upon a form or forms furnished by, or obtainable from the Commissioner of Taxation or an acceptable generic form, which form or forms may require a statement that the figures used in making such declaration are the figures used in making the declaration of the estimate for the Federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(d) For taxpayers who are individuals, such declaration of estimated tax to be paid the City of Upper Sandusky shall be accompanied by payment of at least twenty-two and one-half percent (22-1/2%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

(e) For taxpayers that are not individuals, such declaration of estimated tax to be paid the City of Upper Sandusky shall be accompanied by a payment of at least twenty-two and one-half percent (22-1/2%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(f) Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth day of the fourth month of the taxpayer's taxable year, accompanied by a payment of at least twenty-two and one-half percent (22-1/2%) of the estimated annual tax shown due thereon, and at least an equal amount shall be paid on the fifteenth day of the sixth, ninth and twelfth months thereafter.

(g) The declaration amount may be amended at any time during the year if a taxpayer believes that his income will be more or less than estimated. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(h) On or before April 15 or the fifteenth (15th) day of the fourth (4th) month of a fiscal year, an annual return shall be filed and any balance which may be due the City of Upper Sandusky shall be paid therewith in accordance with the provisions of Section 181.05.

(i) Such declaration shall indicate that the estimated tax is being withheld under the provisions of Section 181.06 or is being paid to another municipality under a similar provision.

(j) The Commissioner of Taxation is authorized to file a declaration of estimated tax for a taxpayer who may reasonably be expected to file such declaration and fails to do so. (Ord. 45-11. Passed 9-20-04.)

181.08 DUTIES OF THE CITY AUDITOR AND THE COMMISSIONER OF TAXATION.

(a) A Department of Taxation is hereby created within the office of the Municipal Auditor.

- (1) The Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by Council.
- (2) The Auditor shall make all appointments of personnel, other than the Commissioner of Taxation, and purchase all equipment, supplies and material for the Department of Taxation.
- (3) The Department of Taxation shall be charged with the administration and operation of this chapter, under the direction of the Auditor. The Auditor shall prescribe the form and method of accounts and reports for the Department, as well as the forms for taxpayers' returns and declarations, and shall be charged with the internal examination and audit of all such accounts.

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

(c) It shall be the duty of the Commissioner of Taxation to enforce payment of all income taxes owing to the City of Upper Sandusky, 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 dates and amounts of payments thereof.

(d) The Commissioner of Taxation is hereby charged with the enforcement of the provisions of this chapter, including the interpretation and enforcement of the rules and regulations set forth in Appendix A 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 relating to any matter or thing pertaining to the collection of municipal income taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments, and shall exhibit accurate records showing the amount received from each taxpayer and the date of such receipt. The Commissioner of Taxation shall also make a written report to Council annually of all moneys collected hereunder during the preceding year.

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

(f) Subject to the consent of the Board of Review or pursuant to regulations approved by the Board, the Auditor shall have the power to compromise any liability and any interest or penalty imposed by this chapter.
(Ord. 45-11. Passed 9-20-04.)

181.09 INVESTIGATIVE POWERS OF THE COMMISSIONER OF TAXATION; DIVULGING CONFIDENTIAL INFORMATION.

(a) The Commissioner of Taxation, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to the tax for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Commissioner of Taxation, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records and Federal income tax returns or the refusal of such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Commissioner of Taxation authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall be fined as provided in Section 181.99. Each disclosure shall constitute a separate offense.
(Ord. 234-5. Approved by voters 3-25-69.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid five (5) days after they become due shall bear interest at the rate of six percent per year (one half percent ($\frac{1}{2}\%$) per month or fraction thereof), or five dollars (\$5.00) whichever is greater.

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

- (1) In the case of taxpayers upon whom such taxes are imposed, one percent of the amount of the unpaid tax for each month or fraction thereof if paid during the first three months after such taxes become due, five percent of the amount of the unpaid tax if paid during the next three months, and ten percent of the amount of the unpaid tax if paid later than six months after the same have become due or five dollars (\$5.00) whichever is greater.
- (2) In the case of employers required to withhold taxes from employees under the provisions of this chapter, five percent of the unpaid withholding if paid during the first month after the same becomes due, then an additional ten percent of the unpaid withholding if paid during the second or third months after the same becomes due and an additional fifteen percent of the unpaid withholding if paid more than three months after the same becomes due.
(Ord. 45-11. Passed 9-20-04.)

(c) Upon recommendation of the Commissioner of Taxation, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Commissioner of Taxation to recommend abatement of penalty and interest, the Board of Review may nevertheless abate penalties or interest, or both.

(Ord. 234-5. Approved by voters 3-25-69.)

(d) In the event a taxpayer files a return as required by this chapter after due date, or after the time extended by the Commissioner of Taxation upon request of the taxpayer, and there is no tax due, a penalty of ten dollars (\$10.00) shall be assessed.

(e) No penalty or interest shall be assessed on an additional tax assessment made by the Commissioner of Taxation when a return has been filed in good faith and the tax paid thereon within the time prescribed herein; and provided further, that neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(f) A penalty of ten dollars (\$10.00) shall be assessed in the following circumstances:

- (1) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, provided the return for the previous year reflected a twelve-month period.
- (2) Or where the taxpayer has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year.
- (3) Or the taxpayer has failed to file a return and pay the total tax due on or before the end of the month following the end of the taxable year.

(g) No penalty shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current tax year.

(h) Each penalty imposed under this section shall be in addition to any other penalty provided in this section.

(Ord. 45-11. Passed 9-20-04.)

181.11 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax or failure to file a return, an additional assessment shall not be paid after five years from the time of payment of any tax due hereunder. However, 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 Commissioner of Taxation shall be three years from the time of the final determination of the Federal tax liability. Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time prescribed by Ohio R.C. 718.06.

(Ord. 234-5. Approved by voters 3-25-69.)

181.12 VIOLATIONS.

(a) Any taxpayer or person who does any of the following shall be fined as provided in Section 181.99:

- (1) Fails, neglects or refuses to make any return or declaration required by this chapter;
- (2) Makes any incomplete, false or fraudulent return;
- (3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter;
- (4) Fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Commissioner of Taxation;
- (5) Refuses to permit the Commissioner or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;
- (6) Fails to appear before the Commissioner and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Commissioner;
- (7) Refuses to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer;
- (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Commissioner authorized hereby; or
- (9) Attempts 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) All prosecutions under this section must be commenced within the time prescribed under Ohio R.C. 718.06.

(c) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.
(Ord. 234-5. Approved by voters 3-25-69; Ord. 45-11. Passed 9-20-04.)

181.13 BOARD OF REVIEW.

(a) A Board of Review consisting of the Law Director, the Mayor, the Municipal Treasurer, a member of Council to be appointed by the President of Council to serve during his term as councilman, and a member of the electorate residing within the corporation to be appointed by the President of Council, is hereby created. All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner of Taxation under the authority conferred by this chapter must be approved by the Board of Review before the same becomes effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection.
(Ord. 234-5. Approved by voters 3-25-69.)

(b) The Law Director shall be Chairman of the Board of Review, and the Clerk of Council shall serve as Secretary thereof. 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 Ohio R.C. 149.43.

(c) All hearings by the Board may be conducted privately and are not meetings of a public body subject to Ohio R.C. 121.22. The provisions of Section 181.09 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(d) Any person dissatisfied with any ruling or decision of the Commissioner of Taxation which is made under the authority conferred by this chapter and who has filed with the City of Upper Sandusky the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal to the Board of Review within thirty days from the announcement of such ruling or decision by the Commissioner of Taxation by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful.

(e) The imposition of penalty and interest as prescribed in the Codified Ordinances of the City of Upper Sandusky is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing the taxpayer may appear before the Board and may be represented by an attorney of law, certified public accountant or other representative.

(g) The Board shall, on hearing, have jurisdiction to affirm, reverse, modify the Commissioner of Taxation's ruling or decision, or any part thereof. The Board shall issue a final decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send a copy of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing its decision.

(h) The taxpayer or the Commissioner of Taxation may appeal the Board's decision as provided in Ohio R.C. 5717.011.
(Ord. 45-11. Passed 9-20-04.)

181.14 ALLOCATION OF FUNDS.

The Funds collected under the provisions of this chapter shall be deposited in the Income Tax Fund and shall be designated and distributed in the following manner, to-wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the tax and the costs of administering and enforcing the provisions of this chapter.
- (b) The Funds derived from the tax shall be divided as follows: Fourteen percent (14%) of the tax collected shall be designated for the management, operation, upkeep, and improvement of the Parks and Recreational Facilities of the Municipality; Forty-one percent (41%) shall be designated for the General Fund for improvements to the Municipality including but not limited to street curbs, traffic control, and the purchase of equipment necessary for the Police, Fire, Traffic, and other Municipal functions under the Department of Services, or the Department of Safety; Forty-five percent (45%) is hereby designated for the Capital Improvement Fund, which said funds shall be expended for any capital improvement which is properly authorized and funds appropriated by this Council.
(Ord. 20-11. Passed 12-15-03.)

181.15 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

Effective January 1, 2010, resident taxpayers of the City of Upper Sandusky shall not receive credit for income tax paid to another municipality.
(Ord. 10-12. Passed 12-21-09)

181.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned, and insofar as the collection of taxes levied and actions of proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned. It shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.12.

(b) Annual returns for the last year in which this chapter shall be effective shall be filed on or before four months from any termination date of this chapter and any tax shown due thereon for such year which is not paid and collectible under the provisions of Sections 181.06 and/or 181.07 shall be paid within such four month period, except in those cases in which the time for filing returns and/or payment of the tax due has been extended in accordance with Section 181.05 and except for claims for reciprocity refunds properly assigned and collectible from another municipality. (Ord. 234-5. Approved by voters 3-25-69.)

181.17 SAVING CLAUSE.

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional, or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein.
(Ord. 45-11. Passed 9-20-04.)

181.99 PENALTY.

Whoever violates any provisions of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.
(Ord. 234-5. Approved by voters 3-25-69.)

APPENDIX A

CITY OF UPPER SANDUSKY

INCOME TAX RULES & REGULATIONS

AS APPROVED BY THE BOARD OF REVIEW AND IN EFFECT

MARCH 20, 2000

ADOPTED UNDER THE AUTHORITY OF

SECTION 181.13

CITY OF UPPER SANDUSKY MUNICIPAL CODE

Rules and Regulations adopted by the Commissioner of Taxation and submitted to the Board of Review for approval and adoption according to Section 181.13 of Ordinance 234-5. All previous Rules and Regulations are hereby repealed.

RULES AND REGULATIONS

- Article I. Purpose
- Article II. Definitions
- Article III. Imposition of tax
- Article IV. Effective date
- Article V. Return and payment of tax
- Article VI. Collection at source
- Article VII. Declarations

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- Article VIII. Duties of the City Auditor and Treasurer
- Article IX. Investigative powers of the Commissioner; divulging confidential information
- Article X. Interest and Penalties
- Article XI. Collection of unpaid taxes
- Article XII. Violations
- Article XIII. Board of Review
- Article XIV. Allocation of funds
- Article XV. Credit for tax paid to other municipalities
- Article XVI. Collection of tax after termination of chapter
- Article IC. Penalty

ARTICLE I
PURPOSE

This Article is intentionally left blank.

ARTICLE II
DEFINITIONS

- A. NET PROFIT EARNED: For purposes of determining "net profit earned" for imposition of the annual tax (Section 181.03 Code of Ordinances), no allowance shall be permitted for a net operating loss sustained or accrued in another taxable year.
- B. REAL PROPERTY: As the term is used in these Regulations, "real property" shall include commercial property, residential property, farm property, and any and all other types of real estate.
- C. DAY: For purposes of determining the number of days a non-resident individual works in the City of Upper Sandusky, any portion of a day worked inside the corporation limits of Upper Sandusky shall be counted as one day worked in Upper Sandusky.

ARTICLE III
IMPOSITION OF TAX

The following are items which are subject to the tax imposed by Section 181.03 of the ordinance:

A. RESIDENTS:

In the case of residents of this municipality an annual tax of 1% is imposed on all salaries, wages, commissions, and other compensation earned during the effective period of the ordinance. For the purpose of determining the tax on the earnings of resident taxpayers taxed under 181.03 (1) of the ordinance, the source of the earnings and the place or places in or at which the services were rendered, are immaterial. All such earnings wherever earned or paid are taxable, however, if it is made to appear that he has paid a municipal income tax to another municipality, a credit shall be allowed for the tax so paid. The credit shall not exceed the tax assessed by this Ordinance.

1. All salaries, wages, commissions, bonuses, tips, fees, incentive payments, etc.

Pay received for vacations, periods of sickness, or other periods of absence from employment subject to federal income tax by:

An employee or any other entity or person whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piece work rates and whether paid by an individual, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, authority, board, body, branch, bureau, department, division, sub-division, section or unit, or any other entity;

An officer, director or employee whether elected, commissioned or appointed.

2. Where compensation is paid or received in property, its fair market value at time of receipt, shall be subject to tax and to withholding. Board, lodging and similar items received by an employee in lieu of additional cash compensation or as part of the compensation shall be included in earnings at their fair market value to the same extent they are taxable under the Federal Income Tax.

3. In the case of domestics and other employees whose duties require them to live in at their place of employment or assignment, board and lodging shall not be considered as wages or compensation earned.

4. An employee who is paid on a commission or other compensation basis and who pays his business expense from his commissions or other compensation without reimbursement from his employer, may deduct from his gross commissions or other compensation, business expense allowed by the Internal Revenue Service but only to the extent such expenses are incurred in earning commissions or other compensation subject to the tax imposed by this Ordinance.

B. NON RESIDENTS:

In the case of individuals who are not residents of this municipality, there is imposed under Section 181.03 (2) of the ordinance, a tax of 1% on all salaries, wages, etc. earned during the effective period of the ordinance for work done or services performed or rendered within this municipality whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property. The location of the place from which payment is made is immaterial.

The items subject to tax under 181.03 of the ordinance are the same as those listed and defined in Article III-A.

C. NET PROFITS from resident and non-resident businesses professions or other activities (See Section 181.03 of Ordinance and Section No. 718 Code of Ohio).

D. FARM INCOME: A resident of Upper Sandusky shall be considered in business when he shares in the crops and/or net receipts from a farm, as reported on Federal Return.

E. LOSSES: Income derived from wages, salaries, etc. cannot be combined with farm income, rental income or business income for the purpose of deducting losses involved in such farm, rental or business income.

F. RENTALS: Rentals shall be considered a business if the gross monthly rentals of all real properties, regardless of number and value, aggregates in excess of \$100.00 per month.

1. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received, shall not be taken into consideration.

2. In determining the taxable net income from rentals, the deductible expense shall be of the same nature, extent and amount as allowed by the Federal Income Tax.

3. Farm Property: Owner shall be considered engaged in business when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$100. per month. If a taxpayer rents a farm or farm house for stated amount and it does not exceed \$100. per month, it is not subject to tax.

4. Commercial Property: Owner shall be considered engaged in business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, whether or not such rental exceeds \$100. per month.

5. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

6. Tourist Homes or rent from rooms: Considered a business and proceeds or net profits are taxable whether or not such income exceeds \$100.00 per month.

7. Residents of Upper Sandusky are subject to tax upon net income from rental (to the extent they exceed \$100. per month or are a business) regardless of location of the real property owned unless it is made to appear that he has paid an income tax of at least one per cent (1%) to the municipality in which the property is located.

8. Non-residents of Upper Sandusky are subject to tax on real property situated in Upper Sandusky to the extent they exceed \$100 per month or are a business.

G. EXCEPTIONS TO THE TAX:

1. Funds received from local, state or federal governments because of service in the Armed Forces of the United States by the person rendering such service or their dependents.

2. 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.

3. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organization.

4. Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

5. Any association, organization, corporation, club or trust which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.

6. Gain or loss from the sale, exchange or other disposition of capital assets, including depreciable property and real estate used in business shall not be included in determining net profits.

7. Earnings and income of all persons under 18 years of age whether residents or non-residents.

8. Income from intangibles, (government bonds, dividends, interest, annuities and the like) if such income is from property subject to taxation under the Intangible Personal Property Tax Laws of the State of Ohio or is exempted under such laws.

9. Any income of less than \$100.00 per year or tax of less than \$1.00 per year is exempt.

10. Winnings from games of chance, including lotteries, bingo, raffles, gambling, promotions, and similar enterprises are exempt from taxation.

11. Proceeds of insurance paid by reason of the death of the insured, compensation for damages for personal injuries or for damage to property by way of insurance or otherwise.

12. Income from royalties or copyrights is not to be included.

ARTICLE IV
EFFECTIVE DATE

This Article is intentionally left blank.

ARTICLE V
RETURN AND PAYMENT OF TAX

A. NO RETURN REQUIRED: No return need be filed by any person whose sole income, subject to the tax imposed by this Ordinance, is derived from wages, salaries, etc. paid by an employer who has withheld and paid to the Municipality of Upper Sandusky the amount of tax due on the wages, salaries etc. paid, and filed the required employer's report of such withholding with the Tax Commissioner. (Section 5, paragraph E of Ordinance)

B. RETURN REQUIRED:

1. An employee who is permitted to deduct business expenses from gross wages, salaries or commissions must file a return in order to claim such deductions, even though all or part of such wages, salaries, or commissions are subject to withholding, and such employee must attach a copy of Federal Form 2106 or similar proof of such expenses, to his return.

2. The fact that a taxpayer is not required to file a federal tax return does not relieve him of the responsibility of filing a City of Upper Sandusky tax return.

3. City Income Tax Questionnaires, completely filled out on both sides, must be returned to the tax office on or before specified date. Anyone failing to do so will receive a city income tax return. Completed returns, regardless if any tax is due, must be filed on or before the April 15 deadline. Completed Questionnaire must be attached. Anyone failing to file will be subject to the penalties contained in Section 12 of the Ordinance.

4. In order to receive credit for tax paid to another municipality residents of Upper Sandusky must file and attach verification of tax paid to said municipality.

C. PAYMENT PLANS: The Tax Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Commissioner that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the Ordinance. Failure to make any deferred payment, when due, shall cause the total unpaid amount, including penalty and interest to become payable on demand and the provisions of Sections 181.11 and 181.12 of the Ordinance shall apply.

D. EXTENSIONS: The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.

ARTICLE VI
COLLECTION AT SOURCE

- A. RECONCILIATION REQUIRED: On or before the 1st day of March following any calendar year in which such deductions have been made by an employer, such employer shall file with the Commissioner of Taxation, in the form prescribed by the Commissioner of Taxation (I. R. S. Form W-2 preferred) setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year, the total amount of compensation paid during the year and the amount of Upper Sandusky income tax withheld from such employee. (Passed 8-16-04.)
- B. TAXES WITHHELD IN ERROR: Taxes withheld in error shall be refunded by the employer. Total amount of tax refunded shall be deducted from next Employer's Quarterly Return of Tax Withheld. List showing names of employees receiving refunds, amounts refunded each and reasons for refunds must be attached.
- C. DOMESTIC SERVANTS are subject to Municipal tax but are not subject to withholding provisions.

ARTICLE VII
DECLARATIONS

This Article is intentionally left blank

ARTICLE VIII
DUTIES OF THE CITY AUDITOR AND TREASURER

This Article is intentionally left blank

ARTICLE IX
INVESTIGATIVE POWERS OF THE COMMISSIONER OF TAXATION;
DIVULGING CONFIDENTIAL INFORMATION

A. DUTIES OF THE TAX COMMISSIONER: The Tax Commissioner has the authority to correct or adjust any return submitted, when a correction or adjustment is necessary to accomplish the intent of the Ordinance.

B. CONFIDENTIAL INFORMATION: The Tax Commissioner may furnish the Internal Revenue Service, Treasury Department of the United States, the Tax Commissioner of Ohio, the Ohio Student Loan Committee, the State Director of Public Services, the State Auditor's office and the duly authorized Income Tax Administrator of any other city or state with copies of the returns filed. The Tax Commissioner is also authorized to enter into agreements for the exchange of any information with any of the foregoing Federal, State or City officials.

In addition to the penalties of Section 181.99, any employee of this municipality who violates the provisions of Section 181.09 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

ARTICLE X
INTEREST AND PENALTIES

This Article is intentionally left blank.

ARTICLE XI
COLLECTION OF UNPAID TAXES

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ARTICLE XII
VIOLATIONS

This Article is intentionally left blank.

ARTICLE XIII
BOARD OF REVIEW

A. RESIDENCY STATUS: All questions of residency will be determined by the Board of Review based upon the address used on voter registration records, driver's licenses, federal and state income tax returns, and other public records, the address where mail is received, and the residence address of a spouse when there is no evidence of a divorce or legal separation. Temporary employment assignments by themselves do not constitute a change in domicile.

B. REQUEST FOR EXEMPTION:

1. All cases of request for exemption by individuals who are non-residents and perform less than 100% service within the city limits are to be referred to the Board of Review for review and approval of any exemption allowance.

2. Anyone already receiving exemptions or requesting such an exemption must submit an annual request for exemption to the Board. All applicants must appear before the Board the first year they present such a request, or if they request a greater allowance than was previously granted to them, or if there has been a change in their job status.

3. Due to the time and effort involved in granting such exemptions, and due to the fire and police protection, and other services offered to these individuals by the city during the time spent inside the city limits the maximum allowance granted shall be an eighty per cent (80%) exemption to anyone deemed subject to the tax.

ARTICLE XIV
ALLOCATION OF FUNDS

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ARTICLE XV
CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

This Article is intentionally left blank.

ARTICLE XVI
COLLECTION OF TAX AFTER TERMINATION OF CHAPTER

This Article is intentionally left blank.

ARTICLE IC
PENALTY

This Article is intentionally left blank.

