

CITY of CANAL FULTON

TITLE NINE – Taxation
Chapter 181. Income Tax
Chapter 183. Motor Vehicle License Tax

CHAPTER 181
Income Tax

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181.01 PURPOSE OF LEVY OF INCOME TAX

To provide funds for the purposes of street construction, maintenance and repair, capital improvements and general Municipal operations of the City of Canal Fulton,

there is hereby levied a tax on all income, salaries, wages, commissions and other compensations, and on net profits as hereinafter provided in Ordinance 50-83, passed 12-31-83, and as subsequently amended from time to time.

181.02 DEFINITIONS

The following terms, phrases, words and their derivations shall have the meanings respectively ascribed to them in this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

“Administrator” means the position of the Tax Administrator for the Municipality. A Tax Administrator shall be appointed by the Mayor with the advice and consent of Council. The general duties of the Tax Administrator shall be the supervision, auditing and prescribing of procedures with respect to the Municipal income tax as well as acting as the Municipal representative for tax matters.

“Association” means any partnership, limited partnership, limited liability company, Chapter S Corporation as defined in the federal tax code, 26 U.S.C. 1361, or any other form of unincorporated enterprise, owned by two or more persons.

“Board of Review” means the Board created by and constituted as provided in Section 181.46.

“Business” means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or other entity, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.

“Corporation” means a corporation of joint stock associations, but not including Chapter S Corporations, organized under the laws of the United States, the State of Ohio or any other state, territory, foreign country or dependency.

“Domicile” - The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

“Employee” means one who works for a wage, salary, commission or any other type of compensation in the service of an employer.

“Employer” means an individual, partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.

“Fiscal year” means an accounting period of twelve months or less ending on any other day other than December 31.

“Fundamental change” means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.

“Gross receipts” means the revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

“Income” - Shall include all monies derived from any source whatsoever, including but not limited to:

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of Canal Fulton.

(B) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Canal Fulton.

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

“Manager” means any of the employer’s officers, responsible persons, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes, and otherwise complying with this chapter.

“Municipality” means the City of Canal Fulton.

“Net profits” means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses whether paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; and, in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this Chapter.

“Net profits” shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value.

“Nonresident” means an individual domiciled outside the Municipality.

“Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Municipality.

“Person” means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term person, as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

“Place of business” means a bona-fide office, other than a mere statutory office, factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

“Resident” means an individual domiciled in the Municipality.

“Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Municipality.

“Taxable income” means Income minus the deductions and credits allowed by this Chapter.

“Taxable year” means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of year, the period for which such return is required to be made.

“Taxpayer” means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

181.03 RATE AND INCOME TAXABLE

An annual tax for the purposes specified in Section 181.01 shall be imposed, upon the following items of income, on and after January 1, 1984, at the rate of .50%, on and after January 1, 1996, at the rate of .75%, and on and after January 1, 2001, at the rate of 1%.

- (a) On all income, salaries, wages, commissions, and other compensation earned or received on and after January 1, 1984 by residents of the Municipality.
- (b) On all income, salaries, wages, commissions and other compensation earned or received on and after January 1, 1984, by nonresidents of the Municipality for work done or services performed or rendered within the Municipality.
- (c) (1) On the portion attributable to the Municipality on the net profits earned on and after January 1, 1984, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality.
(2) On the portion of the distributive share of the net profits earned on and after January 1, 1984, 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 by the Municipality.
- (d)(1) On the portion attributable to the Municipality of the net profits earned on or after January 1, 1984, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.

- (2) On the portion of the distributive share of the net profits earned on and after January 1, 1984, or a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.
- (e) On the portion attributable to the Municipality of the net profits earned on and after January 1, 1984, of all corporations, derived from sales made, work done, 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.
- (f) On the portion attributable to this Municipality pursuant to the terms of this chapter and including:
- (1) Royalty income. Income earned by a taxpayer from a royalty interest in the production of an oil or gas well, whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer.
Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000.00), it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.
- (2) Finance carrying charges. The employer's income derived from finance and carrying charges associated with their consumer's accounts receivable.
- (g) In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment or other non-business income.
- (h) Every individual taxpayer who resides in Canal Fulton who receives income as specified in this section, if it be made to appear that he or she has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or her or on his or her behalf to such other municipality. The credit shall be 50% of the tax assessed by this ordinance on such income earned in such other municipality where such tax is paid. This subsection shall be effective January 1, 2002.

181.04 EFFECTIVE PERIOD

The tax shall be levied, collected and paid with respect to income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1984, subject to collection in accordance with Section 181.49.

181.05 DETERMINATION OF ALLOCATION OF TAX

In the taxation of income which is subject to Municipality income taxes, if the books and records of a taxpayer conducting a business or profession both within and without

the boundaries of the Municipality shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Municipality, then only such portion shall be considered as having a taxable situs in the Municipality for the purposes of Municipality income taxation. The portion of the entire net profits to be allocated as having been derived from within the Municipality, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. Real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (b) Wages, salaries and other compensation paid during the taxable period the persons employed in the business or profession for services performed in the Municipality to wages, salaries and other compensation paid during the same period to persons employed in the business or profession wherever their services are performed.
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Municipality to gross receipts of the business or profession during the same period from sales and services wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

181.06 SALES MADE IN THE MUNICIPALITY

As used in Section 181.05(c), "sales made in the Municipality" means:

- (a) All sales of tangible personal property which is delivered within the Municipality regardless of where title passes if shipped or delivered from a stock of goods within the Municipality.
- (b) All sales of tangible personal property which is delivered within the Municipality regardless of where title passes even though transported from a point outside the Municipality if the taxpayer is regularly engaged through his own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the Municipality to purchasers outside the Municipality regardless of where title passes if the taxpayer is not, through his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

181.07 TOTAL ALLOCATION

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 181.05 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 181.05.

A factor is applicable even though it may be allocable entirely in or outside the Municipality.

181.08 RENTALS

- (a) (1) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subsections (c), (d) and (e) of Section 181.03, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer, individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- (2) Rental losses on properties can offset rental net profits of other rental properties, but not net profits of non-rental businesses. In the case of non-residents of the Municipality, only those rental properties within the municipality shall be considered when computing loss or net profit on rentals for this Municipality.
- (b) Where the gross monthly rental of any and all real properties regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax.
 - (1) In the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month.
 - (2) In the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
 - (3) The person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
- (c) Property owners who are considered to have a business activity under the provisions of this section shall submit or cause to be submitted to the Administrator a list of names and addresses of all persons, firms, corporations or other entities occupying, leasing or renting any premises belonging to the property owner within this Municipality. The required list shall be prepared as of December 31 of each year and submitted on or before January 31 of the following year.

181.09 OPERATING LOSS; CARRY FORWARD

- (a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1984, allocable to the Municipality may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (b) The portion of net operating loss sustained shall be allocated the Municipality in the same manner as provided herein for allocating net profits to the Municipality.
- (c) The Administrator shall provide rules and regulations the manner in which such net operating loss carry-forward shall be determined.

181.10 SOURCES OF INCOME NOT TAXED

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

- (a) Pay or allowance of active members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard.
- (b) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (c) Poor relief, unemployment insurance benefits, old age pensions or similar payment including disability benefits received from local, State or Federal government or charitable, religious or education organizations.
- (d) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (e) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona-fide charitable, religious or educational organizations and associations.
- (f) Alimony received.
- (g) Personal earnings of any natural person under eighteen years of age.
- (h) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (i) Interest, dividends and other revenue from intangible property.
- (j) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Municipality is specifically prohibited from taxing and income of a decedent's estate during the period of administration, except such income from the operation of a business.
- (k) Expenses deductible on federal form 2106, subject to audit and approval by the Administrator.
- (l) Compensation paid under Section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

- (m) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation.
- (n) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (o) Income, salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.

181.11 WHEN RETURN REQUIRED TO BE MADE

- (a) Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.
- (b) Any person who has no income need not file an annual return. Any person who has exempt income must file a return and declare to the Administrator the nature of his exemption. Any person who has taxable income must file a tax return with the Tax Administrator.
- (c) Notwithstanding any other provision of this Chapter, the deadline for filing any return or paying any tax, when said deadline would otherwise fall on a day which is determined by this Code to be a holiday, a weekend, or a day wherein, because of weather or other conditions, Municipality offices are closed, at least part of the day, the deadline for filing a return or paying a tax shall be the close of business on the next day which is not a holiday, weekend day or a day in which the offices are closed. Any return or payment mailed postage prepaid and U.S. postmarked on such extended day, shall be considered filed or paid in a timely fashion.

181.12 FORM AND CONTENT

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

- (a) The aggregate amounts of income, salaries, wages, commissions and other compensation earned or received and gross receipts from the business, profession or other activity, less allowable expenses incurred in the acquisition of such gross receipts earned during the preceding year and subject to such tax.
- (b) The amount of the tax imposed by this chapter on such earnings and profits; and
- (c) Such other pertinent statements, information returns or other information as the Administrator may require.
- (d) Any individual, partnership, person, corporation, association, business or other entity that pays to any other individual, partnership, person, corporation,

association, business or other entity any compensation that is required by federal law to be reported on a 1099 form or other federal miscellaneous income forms, or any resident of the Municipality who receives a federal form 1099, shall forward to the Municipality along with their income tax forms copies of the 1099 form or other miscellaneous income forms.

181.13 EXTENSION OF TIME FOR FILING

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not more than six months, or one month beyond the extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. The administrator may deny the extension if the taxpayer's income tax account with the Municipality is delinquent in any way.

181.14 CONSOLIDATED RETURNS

- (a) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Municipality. However, once the affiliated group has elected to file a consolidated return or a separate return with the Municipality, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Municipality.
- (b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Municipality. If the Administrator finds that net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Municipality.

181.15 AMENDED RETURNS

- (a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both, contained in Sections 181.30 to 181.32 and 181.34. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

- (b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's 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.

181.16 PAYMENT OF TAX ON FILING OF RETURN

- (a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided that:
 - (3) Any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 181.17; or
 - (4) Any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 181.18.
- (b) 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 this election, indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than three dollar (\$3.00) shall be collected or refunded.
- (c) If any employer is liable for tax obligations imposed by this chapter undergoes a fundamental change, then those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association and otherwise complying with this Chapter shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager shall be jointly and severally liable for the payment of the taxes, interest and penalty.
- (d) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this Chapter.

181.17 COLLECTION AT SOURCE

- (a) (1) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of salary, wages, commissions or other compensation or other income, the tax at the rate imposed in Section 181.03 per year of the gross salaries, wages commissions or other compensation or other income due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes

so deducted during the previous month. However, if the amount of the tax so deducted by an employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(2) When a resident or non-resident receives compensation for services for sales of real estate or insurance from an employer whose situs is the City of Canal Fulton, that total compensation is taxable at Canal Fulton tax rate and is payable to the City of Canal Fulton. The site of the property sold or residence of the purchaser of insurance has no bearing on the taxing of the compensation, and therefore income tax shall be deducted and remitted in accordance with 181.17(a)(1).

- (b) Returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.
- (c) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the 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.
- (d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Municipality but such employee shall be subject to all the requirements of this chapter.
- (e) (1) Every manager is deemed to be a trustee of this Municipality in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds.
(2) Every manager is liable directly to this Municipality for payment of such trust, whether actually collected by such employer or not.
(3) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.
(4) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.
- (f) All employers that provide any contractual service within the Municipality, and who employ subcontractors in conjunction with that service, shall provide the Municipality the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this chapter.

181.18 DECLARATION OF INCOME

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business

entities, estimated to be earned by such person during the current tax year, together with the estimated tax due thereon, less the tax withheld within the Municipality and less the tax credit allowed in Section 181.03, unless such person anticipates that such tax will be fully withheld within the Municipality, and any income earned outside of the Municipality will be fully taxed at the same or higher rate of tax in another Municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts not more than sixty dollars (\$60.00), no declaration or payment of estimated tax is required.

181.19 FILING OF DECLARATION

- (a) The declaration required by Section 181.18 shall be filed on or before April 30 of each year during the effective period set forth in Section 181.04, except that no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the municipality on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period.
- (b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

181.20 FORM OF DECLARATION

- (a) The declaration required by Section 181.18 shall be filed upon a form furnished by or obtainable from the Administrator or on other forms deemed acceptable by the Administrator. Credit shall be taken for Canal Fulton tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.33, credit shall be taken for tax to be paid or to be withheld and remitted to another taxing municipality.
- (b) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

181.21 PAYMENT TO ACCOMPANY DECLARATION

- (a) Such declaration of estimated tax to be paid to the Municipality by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth of 90% of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (b) Effective January 1, 2003, such declaration of estimated tax to be paid to the Municipality by corporations and associations shall be accompanied by a payment of at least one-fourth of 90% of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer the second, third, and

fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

181.22 ANNUAL RETURN

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 181.16.

181.23 INTEREST AND PENALTIES

- (a) All taxes imposed and all moneys withheld by employers under provisions of this chapter and remaining unpaid after they have become due shall bear interest at the rate of one percent (1%) per month.
- (b) In addition to the interest as provided in subsection (a) hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:
 - (1) In the case of a taxpayer failing to pay the full amount of tax due, the penalty shall be the higher of:
 - A. Twenty-five dollars (\$25.00), or
 - B. One percent (1%) per month of the amount of the unpaid tax, if the tax is paid during the first six months after the tax became due; and a penalty of two percent (2%) per month of the unpaid tax, if the tax is paid later than six months after it became due.
 - (2) In the case of employers who fail to withhold and to remit to the Administrator the taxes withheld from employees, the penalty shall be the higher of:
 - A. Fifty dollars (\$50.00), or
 - B. Five percent (5%) per month of the unpaid withholding, if the withholding is paid during the first six months after the withholding became due; and a penalty of ten percent (10%) per month of the unpaid withholding, if the withholding is paid later than six months after it was due.
 - (3) In the case of a taxpayer failing to file his/her return when due, such taxpayer shall be required to pay a late filing penalty of twenty-five dollars (\$25.00).

181.24 RESERVED

This Section is reserved for future legislation.

181.25 EXCEPTIONS

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. Further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

181.26 ABATEMENT OF INTEREST AND PENALTY

Either the Administrator or the Board of Review may abate penalty or interest or both, for good cause shown.

181.27 VIOLATIONS

No person shall:

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

181.28 RESERVED FOR FUTURE USE

This Section is reserved for future legislation.

181.29 FAILURE TO PROCURE FORMS NOT EXCUSED

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

181.30 UNPAID TAXES RECOVERABLE AS OTHER DEBTS

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, of omission of a substantial portion of income subject to this tax or of failure to file a return, an additional assessment shall not be made after three years from

the time the return was due or filed, whichever is later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. However, in those cases in which a Commissioner of the Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

181.31 REFUNDS OF TAXES ERRONEOUSLY PAID

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

181.32 AMOUNTS OF LESS THAN THREE DOLLARS

Amounts of less than three dollar (\$3.00) shall not be collected or refunded.

181.33 TAX CREDIT

Every individual taxpayer who resides in the City, who receives net profits, salaries, wages, commissions or other compensation or other income for work done or services performed or rendered in another municipality or unincorporated area comprising a Joint Economic Development District on such net profits, salaries, wages, commissions or other compensation or other income shall be allowed a credit on the tax imposed by this chapter on the amount paid to such other Municipality or Joint Economic Development District; provided, however, such credit shall only be allowable to the extent such tax is paid to another municipality or Joint Economic Development District on the income subject to the tax imposed by this chapter; and provided further that no credit shall be allowed for any overpayment of tax to another municipality or Joint Economic Development District. The credit shall not exceed the tax assessed by this chapter on such net profits, salaries, wages, commissions or other compensation or other income earned in such municipality or Joint Economic Development District where such tax is paid.

Effective January 1, 2002, the credit shall be 50% of the tax assessed by this Chapter on such income earned in such other municipality or Joint Economic Development District where such tax is paid.

181.34 CLAIM FOR CREDIT

A claim for a refund or credit pursuant to Section 181.34 of the Code of Ordinances shall be made in such manner as the Administrator and Board of Review establish by Regulation pursuant to Section 181.37 of the Code of Ordinances.

181.35 DISBURSEMENT OF FUNDS COLLECTED

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

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
- (b) In any and all actions whereby the City of Canal Fulton grants exemption from real property taxes for any business or industry, the City will compensate the Northwest Local School District for the real property taxes it would have received according to the following procedures and formulas:
 - (1) The Finance Director of Canal Fulton and the Treasurer of the Northwest Local School District will jointly contact the Stark County Auditor and request written, specific appraisal data pertaining to business or industry requesting exemption from real property taxes within the City of Canal Fulton.
 - (2) The business or industry requesting exemption from real property taxation from the City of Canal Fulton shall provide the administration and City Council financial reports, income and earnings statements, employment statistics and employee earnings data to enable the City to reasonably determine the potential annual City income tax revenues that will be realized from normal operations of the business or industry within the corporate limits of Canal Fulton while the exemption from real property taxation is in effect.
 - (3) New business or industry. Actual annual Canal Fulton City income tax receipts from each and every year that an exemption from real property taxation remains in effect will be used to determine the actual amount of compensation paid to the Northwest Local School District by the City of Canal Fulton for real property taxes that would have been received by the School District.
 - A. If the actual income tax received by the City is greater than the annual property tax revenue that would have been realized by the Northwest Local School District (the amount as determined by the Stark County Auditor), the City of Canal Fulton will pay to the Northwest Local School District the amount of revenue that would have been realized from the property tax assessment. This payment shall be made to the Northwest Local School District in its entirety within thirty days of receipt of payment by the City of Canal Fulton of the final City Income Tax amount(s) owed by the business or industry for the prior year.
 - B. If the actual income tax received by the City is equal to or less than the annual property tax that would have been realized by the Northwest Local School District (the amount as determined by the Stark County Auditor) the City of Canal Fulton will pay to the Northwest Local School District one-half of the actual income tax received from the business or industry. This payment shall be made to the Northwest Local School District in its entirety within thirty days of receipt of payment by the City of Canal Fulton of the final City Income Tax amount (s) owed by the business or industry for the prior year.
 - (4) Existing business or industry. In the case of property tax abatements granted to existing businesses or industries which are expanding, tax

sharing shall apply only to additional income tax revenues yielded by the development. Additional income taxes shall be calculated by subtracting the amount of income taxes collected in the year prior to the abatement (base year) from the income tax collections during each year of the abatement (abatement year 1,2,3, etc.)

- A. If the actual additional income tax received by the City is greater than the annual additional property tax revenue that would have been realized by the Northwest Local School District (the amount as determined by the Stark County Auditor) the City of Canal Fulton will pay to the Northwest Local School District the actual amount of revenue that would have been realized from the additional property tax assessment. This payment shall be made to the Northwest Local School District in its entirety within thirty days of receipt of payment by the City of Canal Fulton, Ohio of the final City Income Tax amount(s) owed by the business or industry for the prior year.
- B. If the actual additional income tax received by the City is equal to or less than the annual additional property tax that would have been realized by the Northwest Local School District (the amount as determined by the Stark County Auditor) the City of Canal Fulton will pay to the Northwest Local School District one-half of the actual additional income tax received from the business entity. This payment shall be made to the Northwest Local School District in its entirety within thirty days of receipt of payment by the City of Canal Fulton of the final City Income Tax amount(s) owned by the business or industry for the prior year.
- C. The balance remaining after payment of the expenses referred to in subsections (a) and (b) hereof, shall be deposited in the General Fund for street construction maintenance and repair, capital improvements and general Municipal operations, or in such other fund or funds as Council may from time to time establish or designate.

181.36 DUTIES OF THE ADMINISTRATOR

- (a) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.
- (b) It shall be the duty of the Administrator to enforce payment of all taxes owing to the Municipality, to keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld and to show the dates and amounts of payments thereof.

181.37 AUTHORITY TO MAKE AND ENFORCE REGULATIONS

The Administrator 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 relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the

provisions of this chapter, including provisions for the reexamination and correction of returns.

181.38 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS

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

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 181.27 and 181.30 shall apply.

181.39 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE

- (a) Preparation of Return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.
- (b) Execution of Return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor, or makes, willfully or otherwise a false or fraudulent return, the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he can obtain throughout testimony or otherwise.
- (c) Assessment of a Taxpayer by Administrator. The Administrator may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by this chapter and which is due and owing. Such assessment shall be made by the Administrator's issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period, and the amount of the assessment.
- (d) Status of Executed Returns and Assessments. Any return executed by or any assessment made by the Administrator pursuant to this chapter shall be prima facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.
- (e) Limitation of Prosecutions. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this chapter.

181.40 AUTHORITY TO MAKE INVESTIGATIONS

The Administrator or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any

taxpayer or persons subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax 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 Administrator, or his duly authorized agent or employee, the means, facilities and opportunity to make such examination and investigations as are hereby authorized.

181.41 AUTHORITY TO COMPEL PRODUCTION OF RECORDS

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, paper, 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.

181.42 REFUSAL TO PRODUCE RECORDS

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

181.43 CONFIDENTIAL NATURE OF INFORMATION OBTAINED

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 tax purposes, or except in accordance with proper judicial order. No person shall divulge such information.

181.44 TAXPAYER REQUIRED TO RETAIN RECORDS

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed or the withholding taxes are paid.

181.45 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES

With the approval of City Council, the City may contract with an outside agency to administer and enforce the provisions of this chapter as agent of the City, and the duties and authority of the Administrator hereunder may be performed by the Administrator of the agency with which the City contracts. However, the Administrator of the agency shall have no authority to abate penalties or interest provided for in Section 181.23 or Section 181.24.

181.46 BOARD OF REVIEW ESTABLISHED

A Board of Review consisting of the President of Council and four residents of the City is hereby created. The residents shall be appointed by the Mayor with the consent

of the Council and shall continue to serve at the pleasure of the Mayor. The Board shall select its own chair and secretary, and three members present and voting shall constitute a quorum. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. Any hearing of the Board shall be conducted privately and the proceedings shall be held confidential with Section 181.43.

181.47 BOARD TO APPROVE REGULATIONS AND TO HEAR APPEALS

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

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter, and who has filed with the Municipality the required return or other documents pertaining to the municipal income tax obligation at issue, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal. Any person dissatisfied with any ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction by perfecting the appeal as required by state law within 30 days from the filing of such ruling or decision.

181.48 SEVERABILITY

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such 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 would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

181.49 COLLECTION AFTER TERMINATION OF CHAPTER

- (a) This chapter shall continue effective insofar as the levy of taxes is concerned for the period set forth in Section 181.04 or until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing 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 the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.27 through 181.32.

- (b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.11 and 181.17 of this chapter as though the same were continuing.

181.50 REPORTING INFORMATION ON TENANTS

- (a) (1) On or before March 1, 1993, all property owners of rental or leased property who rent to tenants of residential premises, shall file with the Income Tax Administrator of Canal Fulton, a report showing the names and addresses of each such tenant who occupies residential premises within the corporation limits of the City of Canal Fulton, Ohio, as of March 1, 1993.
- (2) Beginning March 1, 1993, and thereafter, within thirty days after a new tenant occupies residential rental property of any kind within the City of Canal Fulton, Ohio, all property owners of rental or leased residential property who rent to tenants shall file with the City Income Tax Administrator, a report showing the names and addresses of each such tenant who occupies residential premises within the corporation limits of the City of Canal Fulton, Ohio.
- (3) Beginning March 1, 1993, and thereafter, within thirty days after a tenant vacates a rental or leased residential property located within the City of Canal Fulton, Ohio, the property owner of such vacated rental or leased property shall file with the City Income Tax Administrator, a report showing the date of vacating from the rental or leased residential property and identifying such vacating tenant.
- (4) For the purposes of this section, "tenant" means:
- A. If there is a written lease or rental agreement, the person or persons who sign the written lease or rental agreement with the owner.
 - B. If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.
- (5) Whoever violates the provisions of this section shall:
- A. FOR A FIRST OFFENSE: Pay a fine of not more than fifty dollars (\$50.00)
 - B. FOR A SECOND OFFENSE: Pay a fine of not more than one hundred dollars (\$100.00)
 - C. FOR A THIRD AND ALL SUBSEQUENT OFFENSES: Pay a fine of not more than two hundred dollars (\$200.00).
- (b) (1) On or before November 1, 1995, all property owners of rental or leased property who rent to tenants of commercial, business and/or industrial premises, shall file with the Income Tax Administrator, at 155 E. Market St. - Suite C, Canal Fulton, a report showing the names and addresses of each such tenant who occupies commercial, business and/or industrial premises within the corporation limits of the City of Canal Fulton, Ohio, as of November 1, 1995.
- (2) Beginning November 1, 1995, and thereafter, within thirty days after a new tenant occupies commercial, business and/or industrial rental property of any kind within the City of Canal Fulton, Ohio, all property owners of rental or leased commercial, business and/or industrial property who rent to tenants, shall file with the City Income Tax Administrator at 155 E. Market St. - Suite C,

Canal Fulton, a report showing the names and addresses of each such tenant who occupies commercial, business and/or industrial premises within the corporation limits of the City of Canal Fulton, Ohio.

(3) Beginning November 1, 1995, and thereafter, within thirty days after a tenant vacates a rental or leased commercial, business and/or industrial property located within the City of Canal Fulton, Ohio, the property owner of such vacated rental or leased property shall file with the City Income Tax Administrator, at 155 E. Market St. - Suite C, Canal Fulton, a report showing the date of vacating from the rental or leased commercial, business and/or industrial property and identifying such vacating tenant.

(4) For the purposes of this section, "Tenant" shall mean:

- A. If there is a written lease or rental agreement, the sole proprietorship business, partnerships, corporations and/or limited liability company who sign the written lease or rental agreement with the owner.
- B. If there is an oral lease or rental agreement, the sole proprietorship business, partnerships, corporations and/or limited liability company with whom the owner enters into the oral lease or rental agreement.

(5) Whosoever shall violate the provisions of this section shall:

- A. FOR A FIRST OFFENSE: Pay a fine of not more than fifty dollars (\$50.00)
- B. FOR A SECOND OFFENSE: Pay a fine of not more than one hundred dollars (\$100.00)
- C. FOR A THIRD AND ALL SUBSEQUENT OFFENSES: Pay a fine of not more than two hundred dollars (\$200.00)

181.99 PENALTY

- (a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.
- (b) Whoever violates Section 181.43, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the Municipality who violates Section 181.43 shall be guilty of an offense punishable by immediate discharge.