

CHAPTER 181
Income Tax

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CROSS REFERENCES

Power to levy - see Ohio Const., Art. XII, §8
Payroll deductions- see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
City Income Tax Department control - see ADM. 121.01

181.01 PURPOSE; LEVY.

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Lancaster, Ohio, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.
(Ord. 38-00. Passed 11-27-00.)

181.02 DEFINITIONS.

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

- (a) **ADMINISTRATOR** – The individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance, also commonly referred to as Tax Commissioner.

(b) ASSOCIATION – A partnership, limited liability partnership, limited liability company, Chapter S Corporation as defined in the federal tax code, or any other form of unincorporated entity, owned by two or more persons.

(c) BOARD OF APPEAL – The Board created by and constituted as provided in Section 181.14.

(d) BUSINESS – An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership association, corporation or any other entity.

(e) CORPORATION – 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, but not including Chapter S Corporations.

(f) EMPLOYEE – One who works for wages, salary, commission or other type of compensation in the service of an employer. (g) EMPLOYER – An individual, 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.

(h) FISCAL YEAR – An accounting period of twelve (12) months or less ending on any day other than December 31st.

(i) GROSS RECEIPTS – The total income from any source whatsoever.
(Ord. 38-00. Passed 11-27-00.)

(j) NET PROFITS – A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; exclusive of the amount of Ohio Franchise tax computed on the net worth basis, and in the case of a partnership without deduction of salaries paid to partners and otherwise adjusted to the requirements of this chapter. Net profits shall include ordinary gain from recaptured depreciation. A R.E.I.T. shall be taxed as an entity on net profits before deduction of distributions to owners/members. In the case of income of a sole proprietor, and pass-through or other non-wage income earned after December 31, 2000 that is subject to self-employment tax, there shall be no deduction of the one-half self-employment tax.
(Ord. 40-01. Passed 12-10-01.)

(k) NON-RESIDENT – An individual domiciled outside the City of Lancaster, Ohio.

(l) NON-RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity not having an office or place of business within the City of Lancaster, Ohio.

(m) OWNER – A partner of a partnership, shareholder of an S corporation, member of a limited liability company or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(n) PERSON – Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(o) PLACE OF BUSINESS - Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

(p) RESIDENT – An individual domiciled in the City of Lancaster, Ohio.

(q) RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the City of Lancaster, Ohio.

(r) TAXABLE INCOME – Wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

(s) TAXABLE YEAR – The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(t) TAXING MUNICIPALITY – Any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals and on the net profits earned from the operation of a business, profession or other activity.

(u) TAXPAYER – A person, whether an individual, 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 the neuter. (Ord. 38-00. Passed 11-27-00.)

181.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 181.17, an annual tax for the purposes specified in Section 181.01, hereof shall be imposed on and after July 1, 1989, at the rate of 1.75 percent per annum upon the following:

(1) On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by residents of the City of Lancaster, Ohio,

including income from lottery winnings and prize money in the amount of more than \$5,000 won on or after January 1, 2001. On all income received as gambling winnings from gaming, wagering and other games of chance and reported on Internal Revenue Service form W-2G, Form 5754 and or any other form required by the Internal Revenue Service that reports winnings from gambling and prizes (Effective October 1, 2012).

(2) On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by nonresidents for work done or services performed or rendered in the City of Lancaster, Ohio, subject to the 12-day occasional entry provision outline in subsection (e)(2) below. (Ord. 22-05. Passed 5-9-05.)

(3) A. On the portion attributable to the City of Lancaster, Ohio, of the net profits earned during the effective period of this chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Lancaster, Ohio.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident association or other unincorporated business entity not attributable to the City of Lancaster, Ohio, and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief Provisions of Section 181.16 hereof.

(4) A. On the portion attributable to the City of Lancaster, Ohio of the net profits earned during the effective period of this chapter of all non-resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Lancaster, Ohio, whether or not such association or unincorporated business entity has an office or place of business in the City of Lancaster, Ohio. For sole proprietors, this shall be subject to the 12-day occasional entry provision outlined in subsection (e)(2) below.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident association or unincorporated business entity not attributable to the City of Lancaster, Ohio and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief Provisions of Section 181.16 hereof.

(5) On the portion attributable to the City of Lancaster, Ohio of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Lancaster, Ohio, whether or not such corporations have an office or place of business in the City of Lancaster, Ohio.

(b) The portion of the net profits attributable to the City of Lancaster, Ohio of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City of Lancaster, Ohio shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Net Operating Loss.

(1) The portion of a net operating loss sustained in any taxable year starting prior to January 1, 2001, allocable to the City of Lancaster, Ohio may be applied against the portion of the profit of succeeding years allocable to the City of Lancaster, Ohio until exhausted but in no event for more than five (5) taxable years. The portion of a net operating loss sustained in any taxable year starting after December 31, 2000 but prior to January 1, 2004, allocable to the City of Lancaster, Ohio may be carried forward for not more than one (1) taxable year. The portion of a net operating loss sustained in any taxable year starting after December 31, 2003, allocable to the City of Lancaster, Ohio may not be carried forward. No portion of a net operating loss may be carried back against net profit of any prior year. (Ord. 73-03. Passed 12-22-03.)

(2) Effective for taxable years starting after December 31, 2000, the net loss from an unincorporated business activity may not be used to offset other taxable income, salaries, wages, commissions or other compensation earned. If a taxpayer is engaged in two or more taxable business activities to be included on the same tax return, the net loss allocable to Lancaster from one unincorporated business activity may be used to offset the net profit of another unincorporated business activity for purposes of arriving at overall net profit.

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

(4) The Administrator may provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

(d) Consolidated Returns.

(1) Filing of a consolidated return from any affiliated group of corporations subject to Lancaster income tax is permitted if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. Once a consolidated return has been filed with Lancaster, that same approach must be used in all subsequent tax years for as long as a federal consolidated return continues to be filed.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person

operates a division, branch, factory, office, laboratory or activity within the City of Lancaster, Ohio, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Lancaster, Ohio. If the Administrator finds net profits are not properly allocated to the City of Lancaster, Ohio, by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Lancaster, Ohio.

(e) Exceptions.

(1) The tax provided for herein shall not be levied upon the military pay or allowances 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 Section 718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section. It is also provided that this tax shall not be levied upon poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations, worker's compensation insurance and social security benefits. The tax provided for herein shall not be levied upon the earnings of any person under sixteen (16) years of age, whether a resident or nonresident.

(2) A. For tax years starting January 1, 2001 or later, a non-resident individual (if the non-resident is an employee, the principal place of employment of the non-resident's employer must be outside of Lancaster) who works in Lancaster on 12 or fewer days per year shall be considered an occasional entrant and shall not be subject to Lancaster's municipal income tax for those 12 (or fewer) days. For purposes of this 12-day calculation, any portion of a day worked in Lancaster shall be counted as one day worked in Lancaster.

B. If a non-resident individual works in Lancaster on 13 or more days per year, where a day is as defined in subsection (e)(2)A., no such exception shall apply.

(3) The 12-day occasional entry provision does not apply to professional entertainers or professional athletes, or to promoters of professional entertainment or sporting events and their employees. (Ord. 38-00. Passed 11-27-00.)

181.04 IMPOSITION OF TAX FOR PARKS AND RECREATION.

To provide funds for the purposes of operating, maintaining, repairing and providing capital facilities for municipal park and recreational activities and facilities, there should be and is hereby levied an annual tax, in addition to the tax levied by Section 181.03, and any other section imposing a tax on earnings and income, for the period January 1, 2013 through December 31,

2017 upon those classes of earnings and income set forth in Section 181.03 at the rate of one and one-half tenths of one percent (0.15%).
(Ord. 17-02. Passed 6-10-02.)

181.041 IMPOSITION OF TAX FOR FIRE AND POLICE.

Of the total imposed tax of 1.6%, forty-five hundredths of one percent (0.45%) is to provide funds for the purpose of operating, maintaining, repairing and providing capital facilities for the Fire and Police Departments of the City.
(Ord. 38-00. Passed 11-27-00.)

181.043 IMPOSITION OF TAX FOR OPERATIONS OF FIRE SERVICES.

To provide funds for the purpose of providing fire services within the City and acquiring equipment for such services and paying principal and interest on securities issued and public obligations incurred to finance such equipment, there is levied an additional tax of one and one-half tenths of one percent (.15%) upon those classes of salaries, wages, commissions, net profits and other compensation set forth in Section 181.03 effective July 1, 2005.
(Ord. 22-05. Passed 5-9-05.)

181.05 EFFECTIVE PERIOD.

The tax imposed by this chapter, as amended, shall be levied, collected and paid upon the salaries, wages, commissions, net profits and other compensation set forth in Section 181.03. The tax imposed by Sections 181.03, 181.041, and 181.043 shall remain in effect until repealed. The tax imposed by Section 181.04 shall remain in effect through December 31, 2017. (Ord. 22-05. Passed 5-9-05.)

181.06 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30th of the year following the effective date of this ordinance up to and including the year 2000, and on or before April 15th 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 (4) months from the end of such fiscal year or period if the tax period starts on or before January 1, 2001 and within three and one half (3.5) months from the end of such fiscal year or period if the tax period starts after January 1, 2001.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on a generic form in conformity with subsection (f) below, setting forth:

- (1) A. The aggregate amount of salaries, wages, commissions and other compensation earned; and
- B. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;

C. Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance;

- (2) A. The amount of tax imposed by this chapter on income reported;
B. Any credits to which the taxpayer may be entitled under the provisions of Sections 181.07, 181.08 and 181.16; and
- (3) The taxpayer shall provide such other pertinent statements, information returns or other information as the Administrator may require, including a copy of the taxpayer's Federal Income Tax Return or Returns.

(c) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension of time for filing a Lancaster income tax return. The taxpayer may make the request by filing with the Lancaster Income Tax Department a copy of the taxpayer's request for a federal filing extension or such other form of request as approved by the Administrator. The request for city extension shall be filed not later than the last day for filing the Lancaster income tax return. Lancaster shall grant such a request for extension for a period equal to the period of the federal extension request. The taxpayer's request for a Lancaster extension shall be denied if the taxpayer fails to timely file the request, or if the taxpayer owes Lancaster any delinquent income tax or any penalty, interest, late fee, assessment, or other charge for late payment or nonpayment of income tax, or if the taxpayer has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a Lancaster income tax return does not extend the last date for paying the tax. Penalty and interest provisions of Section 181.11 shall apply.

- (d) (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of the tax due, if any, after deducting:
 - A. The amount of the City of Lancaster, Ohio income tax deducted or withheld at the source pursuant to Section 181.07 hereof;
 - B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 181.08 hereof;
 - C. Any credit allowable under the provisions of Section 181.16 hereof.
- (2) Should the return, or the records of the Administrator, indicate overpayment of the tax to which the City of Lancaster, Ohio is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. Provided, however, that overpayments less than five dollars (\$5.00) shall not be refunded. No refund shall be made to any taxpayer until he has complied with all provisions of this chapter and has furnished all information, documentation or substantiation required by the Administrator. No refunds will be allowed for Lancaster residents on income received, accrued or paid for vacation days, sick days, holidays, personal days, or any other paid days off. No refunds will be allowed for nonresidents for vacation days, sick days (including third party sick pay), holidays, or personal days, but shall be allowed for performance of duties outside the City of Lancaster. (Ord 82-05. Passed 12-12-05)

(e) Amended Returns. 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 and/or limitations contained in Sections 181.12 and 181.16. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting, apportionment of net profits or elect to file a consolidated return after the original due date of filing. Changing filing status (i.e. separate versus consolidated) is prohibited.

Within three (3) months from the final determination of any tax liability affecting the taxpayer's Lancaster tax liability, such taxpayer shall make and file an amended Lancaster return showing income subject to the City of Lancaster, Ohio, 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.

Within thirty (30) days of receiving a tax refund from another municipality or village for which credit has been taken in whole or in part on a taxpayer's Lancaster return, such taxpayer shall make and file an amended Lancaster return and pay any additional tax shown thereon.

(f) Generic Forms. The City of Lancaster will accept a generic form for its annual tax return, declaration, estimated payment, quarterly withholding statement, or annual reconciliation of tax withheld. However, to be acceptable the form must contain all the information required on the form supplied by the City of Lancaster, and must be in a similar format that will allow processing of the generic forms without changing Lancaster's existing procedures for processing forms. Determination as to whether a generic form meets these criteria shall be the responsibility of the Administrator. (Ord. 38-00. Passed 11-27-00.)

181.07 COLLECTION AT SOURCE.

- (a) (1) Each employer within or doing business within the City of Lancaster, Ohio who employs one or more persons on a salary, wage, commission or other compensation basis shall, at the time of payment thereof, deduct the tax of 1.6 percent from the gross salaries, wages, commissions or other compensation earned by Lancaster residents regardless of where such compensation was earned and shall deduct the tax of 1.6 percent from the salaries, wages, commissions or other compensation earned within the City of Lancaster, Ohio by non-residents; (Ord. 73-03. Passed 12-22-03.)
- (2) On or before the last day of February following any calendar year such employer shall file with the Administrator an information return (annual reconciliation of tax withheld) for each employee from whom Lancaster Income Tax has been, or should have been withheld, showing the name, address, and social security number of the employee, the total amount of compensation paid during the year and the amount of Lancaster Income Tax withheld, as well as other municipal taxes withheld from such employee. No extension of time to file shall be allowed.

(3) On or before the last day of February following any calendar year, in addition to the above wage reporting requirements, any person or business entity paying money to an individual or independent contractor for work done or services performed in Lancaster shall report such to the Administrator by providing copies of federal form 1099.

(b) Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the City of Lancaster, Ohio as a Trustee for the benefit of the City of Lancaster, Ohio and any such tax collection by such employer from his employees shall, until the same is paid to the City of Lancaster, Ohio be deemed a trust fund in the hand of such employer. Every employer or officer of a corporation is deemed to be a Trustee for the City of Lancaster in collecting and holding the tax required under this ordinance to be withheld. The officer or employee having control or supervision of, or charged with the responsibility of, filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation or other cessation of business does not discharge an officer's or employee's liability for prior failure of the corporation to file returns or pay tax due.

- (c) (1) Beginning January 1, 2001 a non-resident employer with no principal place of employment situated in Lancaster is not required to withhold Lancaster municipal income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.00.
- (2) When the collective tax liability exceeds \$150.00, the employer is required to begin withholding the appropriate municipal income tax for Lancaster on behalf of all employees doing business in Lancaster, and the withheld tax shall be remitted to Lancaster in accordance with subsections (a) and (b) hereof.
- (3) Once the collective tax liability has exceeded \$150.00, the employer must withhold municipal income tax for Lancaster for subsequent years, even if the liability in subsequent years does not exceed \$150.00. However, if the withholding tax liability for each of three (3) consecutive years (subsequent to the year in which the employer became liable for withholding such income tax for Lancaster) does not exceed \$150.00, the employer will be considered as not having performed work in Lancaster in regard to future withholding tax liability, and will again be subject to subsection (c)(1). (Ord. 38-00. Passed 11-27-00.)

181.08 DECLARATIONS.

- (a) Subject to safe harbor provisions established by the Administrator, every person who anticipates any taxable income which is not subject to Section 181.07 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 hereof 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; provided, however, if a person's income is wholly from wages, from which the tax will be withheld and remitted to the City of Lancaster, Ohio, in accordance with Section 181.07 hereof, such person need not file a declaration. (Ord. 38-00. Passed 11-27-00.)

- (b) (1) Such declaration shall be filed on or before April 15th each year during the life of this chapter.
(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within three and one-half months after the beginning of each fiscal year or period.
(Ord. 40-01. Passed 12-10-01.)
- (c) (1) Such declaration shall be filed on a form furnished by, or obtainable from, the Administrator, or other generic form in conformity with Section 181.06(f). Credit shall be taken for Lancaster Income Tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 181.16 hereof.
(2) 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.
- (d) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth (1/4) of the estimated annual tax due after deducting:
(1) Any portion of such tax to be deducted or withheld at the source pursuant to Section 181.07 hereof;
(2) Any credits allowable under the provisions of Section 181.16 hereof; and (3) Any overpayment of previous year's tax liability which the taxpayer has not elected to have refunded.
At least a similar amount shall be paid on or before the last day of July, October and January after the beginning of taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.
- (e) For any year for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City of Lancaster, Ohio, shall be paid therewith in accordance with the provisions of Section 181.06 hereof.
(Ord. 38-00. Passed 11-27-00.)

181.09 DUTIES OF THE ADMINISTRATOR.

- (a) (1) 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 monies so received.
(2) It shall be the duty of the Administrator to enforce payment of all taxes owing the City of Lancaster, Ohio, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) Said Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered 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 re-examination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest, penalties and late fees 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 owned by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount including penalty, interest and late fee to become payable on demand and the provisions of Section 181.12 and 181.13 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City of Lancaster, Ohio, from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest, penalties and late fees, if any. (Ord. 38-00. Passed 11-27-00.)

181.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or an authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this 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 for making such examinations and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax 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 Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 181.13 hereof.

(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, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Lancaster, Ohio, who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date of his return is filed, or the withholding taxes are paid. (Ord. 38-00. Passed 11-27-00.)

181.11 INTEREST, PENALTIES AND LATE CHARGES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction thereof.

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

(1) For failure to pay taxes due other than taxes withheld: one percent (1%) per month or fraction thereof.

(2) For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof.

(c) In the case of taxpayers who fail to file tax returns when due as required by this chapter, the following late filing charges will apply:

LATE CHARGE WHEN COMPLETE TAX RETURN IS FILED

\$25.00 Not more than thirty (30) days late

\$50.00 More than thirty (30) but not more than one hundred and twenty (120) days late

\$100.00 More than one hundred and twenty (120) days late

(d) Effective for 1998, for any information return required by Section 181.07(a)(4) that is not submitted on or before January 31, or by the end of February if a timely written request is made to the Administrator for a thirty (30) day extension, and effective for the information returns of the years 1999 and later that are required by Section 181.07(a)(4) and are not submitted on or before the end of February, there shall be assessed a late filing charge of \$25.00 effective the first day of the month following the due date and

increased \$25.00 on the first day of each month thereafter that they remain in violation to a maximum of \$100.00.

(e) Effective for tax years 2001 and later, for failure to provide forms 1099 as required by Section 181.07(a)(5), there shall be assessed a late filing charge of \$10.00 effective on the first day of the month following the due date and increased by \$10.00 on the first day of each month thereafter that the violation continues to a maximum of \$50.00.

(f) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator: and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and additional tax is paid within three (3) months after the final determination of the federal tax liability.

(g) The Administrator is hereby given the authority to abate any of the penalties, interest and late charges imposed by this Section upon formal request of the taxpayer. Such abatement is authorized whether in full or in part. The Administrator may promulgate reasonable rules and regulations governing the abatement of penalties, interest and late fees. (Ord. 38-00. Passed 11-27-00.)

181.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest, penalties and late fees thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.

(b) "Reasonable administrative costs" associated with the delinquent tax collection includes but is not limited to, fees no less than twenty-five percent (25%) of the total delinquent amount, including the tax amount, interest and penalty of any post judgment account assigned to a collection agency, and no greater than thirty-five percent (35%) of the total delinquent amount, including tax amount, interest and penalties of any pre-judgment account assigned to a collection agency.

(c) In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Administrator shall be executed one (1) year from the time of the determination of the federal year liability.

(d) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due,

or within three (3) months after final determination of the federal tax liability, whichever is later. For purposes of refunds sought under this section, the time specified shall commence upon the first to be filed of either the employer's Form W1 (Employer's Return of Tax Withheld), the employer's W3 (Withholding Reconciliation), the current or former employee's personal income tax return, or the business income tax return.

(e) After the time period allowed for a refund of the tax or withholding paid to another municipality, a nonrefundable credit shall be allowed against or withholding erroneously paid or withheld erroneously paid or withheld to another municipality equal to the tax withholding paid with respect to such income or wages.

(1) If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in subsection (c) hereof shall be calculated using the tax rate in effect.

(2) Nothing in this section permits any credit carry forward.

(f) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the completed return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio Revised Code 5703.47.

(g) Amounts of less than five dollars (\$5.00) shall not be collected or refunded.
(Ord. 82-05. Passed 12-12-05.)

181.13 VIOLATIONS; PENALTY.

(a) Any person who shall:

(1) Willfully fail, neglect or refuse to make any return or declaration required by this section; or

(2) Make any incomplete, false or fraudulent return; or

(3) Fail, neglect, or refuse to pay the tax, penalties or interest imposed by this section; or

(4) Willfully fail, neglect, or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

(5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, papers, records and federal income tax returns relating to the income or net profits of a taxpayer; or

(6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

(7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

- (8) Fail to comply with the provisions of this section or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Lancaster tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties, interest or late fee imposed by this chapter; shall be guilty of an unclassified misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

(b) All prosecutions under this Section must be commenced within three (3) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.

(c) 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.

(d) The prosecution of any individual for violating any subsection of Section 181.13 does not prevent the City of Lancaster, Ohio from pursuing the obtainment of any tax, penalties, interest or late fee owed to the City. (Ord. 38-00. Passed 11-27-00.)

181.14 BOARD OF APPEAL.

(a) A Board of Appeal consisting of a chairperson and two other individuals, all three to be appointed by the Mayor of the City of Lancaster, Ohio, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearings requested by a taxpayer before the Board are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. The provisions of Section 181.10 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 of Appeal. Records of the Board of Appeal are not public records available for inspection under Section 149.43 of the Ohio Revised Code.

(b) Any person who is aggrieved by a decision of the Administrator and who has filed with Lancaster the required returns and other documents pertaining to the Lancaster tax obligation at issue in the decision may appeal therefrom to the Board of Appeal within thirty (30) days from the issuing of such decision by the Administrator, and the Board

shall, on hearing, have jurisdiction to affirm, reverse or modify any such decision, or any part thereof.

(c) The Board of Appeal shall schedule a hearing within forty-five (45) days after receiving a valid request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an Attorney at Law, Certified Public Accountant or other representative.

(d) The Board shall make a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.
(Ord. 38-00. Passed 11-27-00.)

181.15 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the Income Tax Receipts Funds and shall be used, disbursed and transferred as follows:

(a) For the period July 1, 2005 through December 31, 2007, such part of those funds as shall bear the same ratio to the total tax collected as one and one-half tenths of one percent (.15%) bears to the total rate of tax imposed by this chapter shall be used for the purposes stated in Section 181.04.

(b) For the period beginning July 1, 2005, and continuing thereafter, such part of those funds as shall bear the same ratio to the total tax collected as one and one-half tenths of one percent (.15%) bears to the total rate of tax imposed by this chapter shall be used for the purpose stated in Section 181.043.

(c) For the period beginning July 1, 2005, and continuing thereafter, such part of those funds as shall bear the same ratio as four and one-half tenths of one percent (.45%) bears to the total rate of tax imposed by this chapter shall be used for the purpose stated in Section 181.041.

(d) For the period beginning July 1, 2005, and continuing thereafter, the balance of those funds shall be used for the following purposes and in the respective percentages:

General Fund 96%

Parks Bond Retirement Fund 1%

Cemetery Fund 1%

Law Enforcement Building Fund 2%

(Ord. 22-05. Passed 5-9-05.)

181.16 RELIEF PROVISIONS.

(a) Every individual taxpayer who resides in the City who earned, received, accrued or in any other way had set aside unto him net profits, salaries, wages, commissions, other compensation, or other personal service compensation for work done or services performed or rendered outside the City, if it is established with supporting documentation

that said income is subject to municipal income tax in another municipality and that said tax has been paid to that other municipality on the same income taxable under this chapter, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed one percent (1%) of the income subject to the tax of another municipality. The credit will not be allowed for any amount of taxes erroneously paid to another municipality, including but not limited to taxes that another municipality would refund if properly applied for.

(b) Subsection (a) hereof will not apply and the credit provided therein will not be allowed unless the same is claimed in a timely return or form acceptable to and filed with the Lancaster Income Tax Department, and the taxpayer presents evidence of the payment of the same to another municipality. In the event that a taxpayer fails, neglects, or refuses to file such a timely return or form, he shall not be entitled to such credit and shall be liable for the full amount of the tax levied by this chapter together with such interest and penalties as are prescribed in this chapter. (Ord. 32-02. Passed 8-26-02.)

181.17 SAVING CLAUSE.

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. It is hereby declared to be the intention of the Council of the City of Lancaster, Ohio, that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 38-00. Passed 11-27-00.)

181.18 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed according to the law, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.12 and 181.13 hereof.

(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 181.06 and 181.07 as though the same were continuing. (Ord. 38-00. Passed 11-27-00.)

181.19 MUNICIPAL CONTRACTS.

Effective January 1, 2001 no contract on behalf of the City of Lancaster for works or improvements of the City of Lancaster shall be binding or valid unless such contract contains the following provisions: Said hereby further agrees to withhold Lancaster income tax due or

payable under the provisions of the Lancaster Income Tax Ordinance for wages, salaries, commissions and other compensation paid to its employees and further agrees that any of its subcontractors shall be required to withhold and pay such Lancaster income taxes due under the Ordinance for services performed under this contract. (Ord. 38-00. Passed 11-27-00.)

181.20 REGISTRATION OF TENANTS, CONTRACTORS AND EMPLOYEES.

(a) Effective October 1, 2009 and every year thereafter on or before October 1st, all owners of rental property who rent to tenants of houses, commercial property, industrial property, apartments, rooms boarding houses and other rental accommodations shall file with the Tax Administrator a report showing the full first and last name, address, last four digits of social security number and telephone number, if available, of each such tenant who presently occupies an apartment room, house or commercial property or other rental accommodation within the City, unless the tenant(s) is responsible for their own City water utility payment. Said report must also provide the date a tenant vacates an apartment, room, house, commercial property or other rental accommodation located within the City and a forwarding address, if available.

1. Each owner or the duly designated agent thereof, shall incur a penalty of five dollars (\$5.00) per month per tenant, up to a maximum of one thousand dollars (\$1,000.00), for failure to comply with Section (a) above.

(b) All employers, contractors or subcontractors who do work in the City shall register with the Tax Administrator. The Tax Administrator may request a list of all employees, subcontractors, contractors or others who may do work for them within the Municipality whose profits, wages or earnings are not presently subject to withholding of the City of Lancaster Income Tax (including but not limited to 1099-MISC).