

CHAPTER 148
Municipal Income Tax

148.01	Purpose.	148.10	Interest and penalties.
148.02	Definitions.	148.11	Collection of unpaid taxes and Refund of overpayment.
148.03	Imposition of tax.	148.12	Criminal penalties.
148.04	Effective period.	148.13	Board of Adjudication and Board of Tax Appeals.
148.05	Mandatory filing of return; payment of tax	148.14	Allocation of funds.
148.06	Collection at source.	148.15	Credit for tax paid to another municipality.
148.07	Declarations of estimated tax.	148.16	Saving clause.
148.08	Duties and powers of the Income Tax Administrator.	148.17	Collection of tax after Termination of Chapter.
148.09	Investigative powers of the Income Tax Administrator - penalty for divulging confidential information.		

CROSS REFERENCES

Confidentiality of Info. - see ORC Ch 718.07
Power to levy income tax - see Ohio Const., Art. XII, Sec. 8.
Payroll deductions - see ORC 9.42.
Municipal income taxes - see ORC Ch. 718.
Subpoena power of Board of Tax Appeals - see ADMN. 160.02

148.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, and capital improvements of the City of Oakwood, there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

148.02 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. The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned date.

ADJUSTED FEDERAL TAXABLE INCOME – A corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
- b. Add an amount equal to five percent (5%) of intangible income deducted under this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.
- c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
- d.
 - (i) Except as provided in division (d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- g. If the taxpayer is not a corporation, and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a corporation except:
 - (i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as deductible expenses; and
 - (ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts

paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

ASSOCIATION - A partnership, limited partnership, limited liability company, trust, estate, or any other form of unincorporated enterprise or pass-through entity owned by two or more persons.

BOARD OF ADJUDICATION - The board created by and constituted as provided in section 148.13 of this chapter.

BOARD OF TAX APPEALS - The board created by and constituted as provided in section 148.13 of this chapter.

BUSINESS - An enterprise, profession, undertaking or other activity of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity. The term "business" shall include, but not necessarily be limited to, the sale, rental, lease, license, management, or other use of real and/or tangible personal property.

COMPENSATION - Any remuneration for work done or services provided and shall include, but shall not be limited to, salaries, wages, including vacation pay and sick pay, commissions, bonuses, tips, severance pay, supplemental unemployment pay, or any other remuneration for work done or services provided, that is paid to or constructively received by the recipient, and whether paid in cash or in property. That portion of gross compensation which may be deferred under a federally recognized plan is compensation for purposes of this chapter and is subject to taxation and to withholding under the provisions of this chapter.

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.

DAY - A calendar day or any portion thereof.

DOMICILE - With respect to any individual, a place of abode to which, whenever away therefrom, the individual intends to return.

EMPLOYEE - One who works for wages, salary, commission or other type of compensation in the service of an employer.

EMPLOYER - An individual, partnership, association, corporation, governmental body, unit, agency, or any other entity, whether or not organized for profit, having a place of business or doing business within the City of Oakwood and who or which employs one or more persons on a salary, wage, commission, or other compensation basis.

FISCAL YEAR - An accounting period of twelve months or less ending on any day other than December 31.

FORM 2106 - Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code. (generally used to report employee business expenses)

GENERIC FORM - An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. The generic form, once completed and filed, must contain all of the information required to be submitted with the municipality's prescribed returns, reports, or documents. Such generic form shall become the actual form it is intended to replace, subject to any and all rules and regulations set forth in the Ohio Revised Code and/or Municipal Ordinances.

GOOD CAUSE - Includes, but is not limited to, the avoidance of hardship and the efficient administration of the enforcement of the provisions of this chapter.

GROSS RECEIPTS - The total income of a taxpayer from whatever source derived.

INCOME FROM A PASS-THROUGH ENTITY - Partnership income of partners, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of income from other pass-through entities.

INCOME TAX - The Income Tax Administrator of the City of Oakwood, Ohio, aka Tax Administrator, aka Administrator, aka Tax Director, aka Superintendent, or the person executing the duties of that position. The person appointed to administer the Oakwood Income Tax Ordinance and to direct the operation of the Oakwood Income Tax Department.

INDIVIDUAL - A natural person.

INTANGIBLE INCOME - Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and

appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

INTERNAL REVENUE CODE – The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

INTERNET – The international computer network of both federal and nonfederal interoperable packet-switched data networks, including the graphical sub network known as the World Wide Web.

LIMITED LIABILITY COMPANY – A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the analogous laws of another state.

NET OPERATING LOSS (NOL) – The net loss from all operations and/or the complete or partial sale or disposition of a business or the assets thereof, after provision for all ordinary and necessary expenses, paid or accrued in accordance with the accounting method used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, or other taxes based on income and, in the case of an association, without deduction of compensation to owners, and otherwise adjusted to the requirements of this chapter. Net operating losses may not be carried backward or forward to offset taxable income in past or future years.

NET PROFITS - The "net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in section 148.03, required to be reported on Schedule C, Schedule E or Schedule F of federal tax returns.

NONQUALIFIED DEFERRED COMPENSATION PLAN – A compensation plan described in section 3121(v)(2) (C) of the Internal Revenue Code.

NON-RESIDENT - Any individual who is not domiciled in the City of Oakwood, as defined in this Chapter 148.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity not having an office or place of business within the City of Oakwood.

OHIO BUSINESS GATEWAY - The online computer network system initially created by the Ohio Department of Administrative Services under section 125.30 of the Revised Code, that allows private businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

OTHER ACTIVITY - Any undertaking, not otherwise specifically defined herein, which is normally entered into for profit or gain, including but not limited to lottery, contest and gambling winnings, as well as prizes and awards; rental of real and personal

property and any business conducted by a trust or guardianship estate.

OWNER – A sole-proprietor, partner of a partnership, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

OWNER'S PROPORTIONATE SHARE – With respect to each owner of a pass-through entity, the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

PASS-THROUGH ENTITY – A partnership, 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.

PERSON - Every natural person, fiduciary, association, corporation, governmental entity and any other entity. Whenever used in any section prescribing and imposing a penalty, the term "person" includes a shareholder, officer or employee of a corporation, a trustee of a trust, and a member, owner, officer or employee of an association, who as such shareholder, trustee, owner, officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

PLACE OF BUSINESS - Any office (other than that of a mere statutory agent appointed to receive service of process), 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 employees or agents.

PRINCIPAL PLACE OF BUSINESS – In the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business is in the municipality where the headquarters is situated. In the case of an employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

QUALIFIED PLAN – A retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

QUALIFYING WAGES – Wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code. Qualifying wages include compensation arising from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, and the sale, exchange, or other disposition of stock purchased under a stock option; as well as the compensation attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code.

RENTAL UNIT – Any physical space, including but not limited to any office, factory, retail store, warehouse, storage facility, residential dwelling, or other space or property, which is rented or leased to any person.

RESIDENT - An Individual domiciled in the City of Oakwood. Maintaining a place of abode within the City of Oakwood for a total of 183 days or more within any twelve month period shall be deemed presumptive proof of residency.

RESIDENT UNINCORPORATED BUSINESS ENTITY - An unincorporated business entity having a place of business within the City of Oakwood.

RETURN – Any original or amended City income tax return.

RETURN PREPARER – Any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer. However, a taxpayer may complete and/or file his own tax return.

S CORPORATION – A corporation which has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year. An S Corporation shall be taxed for municipal purposes in the same manner as a C corporation; distributions to shareholders/owners are considered non-taxable, and S corporation losses are not deductible by individual shareholders/owners.

SCHEDULE C – Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code. (Generally used to report self-employment income or loss)

SCHEDULE E – Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code. (Generally used to report rental income or loss and distributive share of income or loss to owners/partners)

SCHEDULE F – Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code. (Generally used to report farm income or loss)

SCHEDULE K-1 – Internal Revenue Service Schedule K-1 filed by a pass-through entity pursuant to the Internal Revenue Code. (Generally used to report owner's / partner's distributive share of partnership income or loss)

TAXABLE INCOME - Qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, including lottery winnings, gambling proceeds, prizes, awards, and proceeds from contests and other games of chance; the net profit of a sole proprietorship as required to be reported by the taxpayer on schedule C or F; the net profit of an individual from rental and/or other activity required to be reported on schedule E; and adjusted federal taxable income from the operation of a business, adjusted in accordance with the provisions of

this Chapter.

TAXABLE YEAR - The corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

TAXPAYER - A person, whether an individual, partnership, association, corporation or other entity, required by this chapter to file a return or pay or withhold a tax. "Taxpayer" does not include any person that is a disregarded entity for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity.

148.03 IMPOSITION OF TAX.

A. An annual tax for the purposes specified in Section 148.01 shall be imposed for the period beginning May 1, 1968 at the rate of one percent per annum upon the items described below in this section.

B. Beginning June 1, 1974 an additional annual tax for the purpose of providing funds for essential municipal service and operation, capital improvement and for payment of debt shall be imposed in the same manner at the rate of one-half percent per annum upon items described below in this section.

C. Beginning April 1, 1975 an additional annual tax for the same purpose described in paragraph B above shall be imposed in the same manner at the rate of one-half percent per annum.

D. Beginning October 1, 1984 an additional annual tax for the same purpose described in paragraph B above shall be imposed in the same manner at the rate of one-half percent per annum.

E. The various tax rates referred to above shall be imposed on the following items:

1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents, regardless of whether such income is earned within or outside the city limits of Oakwood.
2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by non-residents for work done, or services performed or rendered in the City of Oakwood.
3. a. Residents: On the portion attributable to the City of Oakwood of the net profits earned and accrued or received by all resident associations, unincorporated businesses, pass-through entities, and other resident entities, derived from sales made, work done, services performed or rendered, and

business or other activities conducted in the City of Oakwood.

- b. Residents: On the portion of the distributive share of net profits earned and accrued or received by a resident partner or owner of a resident unincorporated business entity or pass-through entity not attributable to the City of Oakwood and not levied against such unincorporated entity or pass-through entity.
- 4. a. Non-residents: On the portion attributable to the City of Oakwood of the net profits earned and accrued or received by all non-resident associations, unincorporated businesses, pass-through entities and other non-resident unincorporated entities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the City of Oakwood, whether or not such association or other unincorporated business entity has an office or place of business in the City of Oakwood.
 - b. Resident partner or owner of non-resident, unincorporated business: On the portion of the distributive share of the net profits earned and accrued or received by a resident partner or resident owner of a non-resident association or unincorporated business or pass-through entity which portion is not attributable to the City of Oakwood and not levied against such unincorporated business or pass-through entity.
- 5. Corporations: On the portion attributable to the City of Oakwood of the net profit of corporations for sales made, work done, services performed or rendered and business or other activities conducted in the City of Oakwood, whether or not the corporations have an office or place of business in the City of Oakwood using as a base the taxpayer's adjusted federal taxable income. This section does not apply to any taxpayer required to file a return under section 5745.03 of the Revised Code (concerning Electric Light Companies).
 - 6. Net profit from business or rental activity required to be reported on schedule C or schedule E and attributable to the sale, rental and/or management of real property located within the boundaries of Oakwood shall be considered as having a taxable situs in the City of Oakwood. Accordingly, such compensation shall be taxable to Oakwood.

F. Allocation of Profit: Where a person, association or corporation (other than a taxpayer required to file a return under section 5745.03 of the Revised Code) conducts

a business both within and without the City, the portion of the entire net profit of such business to be allocated as having been earned in or otherwise attributable to the City may be determined from the books and records of such business, if such business maintains bona fide records which disclose with reasonable accuracy what portion of its net profit is attributable to that part of its activities conducted within the City. In the absence of such records, the portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Oakwood shall be determined as follows:

1. Multiply the entire net profits by a business allocation percentage to be the average ratio of:
 - a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business in the City of Oakwood during the taxable period in proportion to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business during the same period, wherever situated.
 - b. As used in the preceding paragraph, real property shall include that rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by 8.
 - c. Wages, salaries, and other compensation paid or accrued during the taxable period to persons employed in the business for services performed in the City of Oakwood in proportion to wages, salaries, and other compensation paid or accrued during the same period to persons employed in the business, wherever their services are performed.
 - d. Gross receipts of the business from sales made and services performed during the taxable period in the City of Oakwood to gross receipts of the business during the same period from sales and services, wherever made or performed.
 - e. If the foregoing apportionment formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.
 - f. A factor is excluded when it does not exist anywhere, that is, when the denominator is zero (0).
2. As used above this section, "sales made in the City of Oakwood" means:

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

G. The portion of a taxpayer's net business operating loss allocable to the City may be applied against the portion of such taxpayer's net profit allocable to the City for the taxable year. Applicable schedules must all be completed.

1. Losses from business activities reportable on federal schedule C, E and/or F may not be used to offset qualifying wages, commissions or other compensation earned or received by residents or nonresidents of the city.

H. A person who receives wages or compensation taxable under this chapter and who pays business expenses without reimbursement from his employer or association, shall be entitled to a deduction for such expenses, to the same extent that such expenses qualify as business expense deductions for federal purposes, and provided that such expenses are determined by the Tax Administrator to be ordinary, necessary and incurred in earning the related income subject to tax under this chapter, but the deduction shall not exceed the amount of income to which such expenses are directly attributable. The amount allowed as a deduction for unreimbursed, ordinary and necessary, employee business expenses shall be limited to that amount which exceeds 2% of the employee's gross income, as computed on Schedule A of the taxpayer's federal tax return.

I. For the purpose of this section, the taxable base shall be determined in accordance with federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for federal income taxes adjusted to the requirements of this chapter.

- J. Consolidated returns.
1. Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Administrator.
 2. A consolidated City return may be filed with respect to a taxable year by a group of corporations which are affiliated through stock ownership if that affiliated group filed a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code for the same taxable year. A consolidated City return must include all companies that are affiliated. If the Tax Administrator finds net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by 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.
- K. Exceptions. The tax provided for herein shall not be levied upon:
1. The military pay or allowances of members of the Armed Forces of the United States and of their reserve components, including the Ohio National Guard;
 2. 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;
 3. Poor relief, unemployment insurance benefits, qualifying old age pensions or similar payments including disability benefits received from local, state or federal governments or charitable, religious or educational organizations;
 4. Proceeds of insurance paid by reason of the death of the insured, qualifying pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered, from whatever source derived;
 5. 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;
 6. Personal earnings of all persons under 18 years of age.

7. Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio which the City of Oakwood 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);
8. Intangible income;
9. 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. Such compensation in excess of one thousand dollars shall be taxable, but the payer of such compensation shall not be required to withhold any tax from that compensation;
10. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306 of the Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the City of Oakwood, or the headquarters of the authority or commission is located within the City of Oakwood;
11. The income of a public utility, when that utility is subject to the tax levied under section 5727.24 or 5727.30 of the Revised Code, except that the income of an electric company, combined company, and telephone company, as defined in section 5727.01 of the Revised Code shall be taxed;
12. An S corporation shareholder's distributive share of net profits of the S corporation;
13. 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, including all items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code.
14. Salaries, wages, commissions and other compensation 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 City of Oakwood to impose net income taxes.

15. The compensation of an individual if all of the following apply:

- (a) The individual does not reside in that municipal corporation.
- (b) The compensation is paid for personal services performed by the individual in that municipal corporation on twelve or fewer days in the calendar year.
- (c) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside that municipal corporation and the individual pays tax on compensation described in Division (B) of this section to the municipal corporation, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual.
- (d) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter.

148.04 EFFECTIVE PERIOD.

The various taxes referred to in Section 148.03 above shall be levied, collected and paid with respect to the wages, commissions and other compensation received during the periods beginning on the dates set forth below. Similarly these taxes shall be levied with respect to the net profits of business, professions or other activities earned and accrued or received during the period beginning on the following dates:

May 1, 1968 for the one percent tax in paragraph A of section 148.03;

June 1, 1974 for the one-half percent tax in paragraph B of that section;

April 1, 1975 for the one-half percent tax in paragraph C of that section;

October 1, 1984 for the one-half percent tax in paragraph D of that section.

148.05 MANDATORY FILING OF RETURN; PAYMENT OF TAX.

A. Each person who engages in business, or other activity or whose qualifying wages, commissions or other compensation is subject to the tax imposed by this chapter shall make and file a return on or before April 15 of each year, whether or not any tax is due from such person. In addition, every resident shall make and file a return in a similar manner, whether or not a tax is due from such resident, excepting those residents under 18 years of age and excepting residents who are retired and who have no income

subject to this tax and have so notified the superintendent in writing.

B. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation and other taxable income of an employee, and paid by the employer or employers to the Tax Administrator may be accepted as the return required of such employee whose sole income subject to tax under this Tax Code is such qualifying wages, commissions, other compensation and other taxable income.

C. The return shall be filed with the Tax Administrator on a form prescribed and furnished by or obtainable upon request from the Tax Administrator or upon a generic form which contains all of the following information and which generic form otherwise complies with all of the City's rules and ordinances governing the filing of returns, reports, and documents:

1. The aggregate amounts of qualifying wages, commissions and other compensation received by him and gross income from business, profession or other activity earned during the preceding year and subject to said tax, less allowable expenses incurred in the acquisition of such gross income;
2. The amount of the tax imposed by this chapter on such earnings and profits; and
3. Such other pertinent statements, information returns or other information as the Tax Administrator may require.

D. Notwithstanding subsection 148.05(C), for taxable years beginning on or after January 1, 2005, a taxpayer subject to Oakwood's tax on the net profit from a business or profession may file its municipal income tax return or estimated municipal tax return, and may make payment of amounts due on such returns, by using the Ohio business Gateway.

E. Except as set forth in subsection (D), the taxpayer making a return shall, at the time of the filing thereof, pay to the City through the Tax Administrator the amount of taxes shown as due thereon. Credit shall be allowed for:

1. Any portion of the tax so due which was withheld at the source pursuant to the provisions of Section 148.06 of this chapter;
2. Any portion of said tax which was paid in advance by the taxpayer pursuant to the provisions of Section 148.07 of this chapter; and

3. Tax paid to another municipality as provided by Section 148.15 of this chapter.

F. Subject to the limitations contained in Section 148.11 of this chapter, any taxpayer who has overpaid the amount of tax to which the City is entitled may have part or all of such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded.

G. Amended returns.

1. Where necessary, an amended return must be filed in order to report additional income and any additional tax due or to claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 148.11. Such amended returns shall be on a form meeting original filing requirements, clearly marked AMENDED. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return without the approval of the Tax Administrator.
2. Notwithstanding the limitations contained in Section 148.11, within three months from the final determination of any federal tax liability affecting the taxpayer's City of Oakwood tax liability, such taxpayer shall make and file an amended City of Oakwood return showing income subject to the City of Oakwood tax based upon such final determination of federal tax liability and shall pay any additional tax shown due thereon or make claim for refund of any overpayment.

H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns. Failure to do so shall be deemed to be a violation of this section, but the taxpayer shall have ten days after notification by the Tax Administrator to file such items.

148.06 COLLECTION AT SOURCE.

A. Each employer shall at the time of the payment of any qualifying wages, withhold the taxes levied by Section 148.03 of this chapter from the qualifying wages of his employees who are subject to the provisions of this chapter. In making such withholding, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be increased to the next full cent and mills less than five shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings. Each employer shall, on or before the last day of each month, make a return and pay to the Tax Administrator, the tax withheld during the preceding month. The Tax Administrator shall

have authority, however, to approve the filing of returns and payments of the tax withheld on a quarterly basis. In such case, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay to the city the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Tax Administrator when it is to the best interest of the City of Oakwood to do so. The Tax Administrator shall provide, by regulation the manner in which such approval is to be granted or withdrawn.

B. The employer shall be liable for the payment of the tax required to be withheld, whether or not such tax has in fact been withheld. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

C. The failure of an employer to remit to Oakwood the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

D. Such employer shall be deemed to hold withheld taxes as a Trustee for the benefit of the City of Oakwood; and any such withheld taxes shall, until paid to the City, be deemed to be a trust fund in the hands of the employer.

E. No person shall be required to withhold the tax on the wages or other compensation paid any domestic servant employed by him exclusively in or about such person's residence, even though that residence is in the City of Oakwood; but every such domestic servant employee shall be subject to all the requirements of this chapter.

F. On or before January 31 of each year, each employer shall file a withholding return on a form prescribed by and obtainable upon request from the Tax Administrator setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of taxes withheld and such other information as may be required by the rules and regulations adopted by the Tax Administrator. If the total City Income Tax withheld from any employee includes tax withheld for another municipality, the amount of such tax and the name of the municipality for which it was withheld shall be separately shown on the annual withholding return.

G. Any employer may report the amount of municipal income tax withheld from qualifying wages paid or on or after January 1, 2007, and may make remittance of such amounts by using the Ohio Business Gateway.

H. Any person who is required herein to withhold City Income Tax from compensation shall pay all such City Income tax to the City in accordance with the provisions of this Chapter. In the event the City Income Tax required to be withheld from the compensation of employees are not so withheld or are not paid to the City in

accordance with the provisions of this section, any person, including but not limited to all shareholders, officers, owners, managers, employees, and trustees, having control or supervision of or charged with the responsibility of filing the withholding return and making payment of City Income tax withheld are jointly and severally personally liable for the City Income Tax withheld, not returned, or not paid to the City as well as any related interest and penalties, and are also criminally liable under the provisions of Section 148.12. The liquidation, dissolution, termination, death, or bankruptcy of any person does not discharge such person's liability for a failure of such person to file withholding returns or withhold or pay City Income Taxes required to be withheld.

I. Any person required by the Internal Revenue Code to report, on an Internal Revenue Service Form 1099, payments made by such person to any individual not treated by such person as an employee for services performed by such individual shall also report such payment to the City where such services or any portion thereof were performed in the City, or where such payee is a resident of the City. Such report shall be made on a form prescribed by the Tax Administrator, which form shall include the name, address, federal taxpayer identification number, the amount of the payments made to each payee, and the percentage of such payments attributable to the City. Federal forms 1099 may be submitted in lieu of such report. Such return or forms shall be filed annually on or before February 28 of each year.

148.07 DECLARATION OF ESTIMATED TAX.

A. Every person who anticipates the receipt of any taxable income which is not subject to Section 148.06 of this chapter, or who engages in any business or other activity subject to the tax imposed by Section 148.03, shall file a declaration setting forth such person's estimated taxable income together with the estimated tax due thereon, if any.

B. The filing date for a declaration of estimated income and estimated tax shall be as follows:

1. On or before April 15 of each year, or on or before the fifteenth day of the fourth month after the date the taxpayer becomes subject to the provisions of this chapter.
2. Any taxpayer reporting on a fiscal year basis shall file a declaration on the fifteenth day of the fourth month after the beginning of each fiscal year or period.

C. Form for (and amendment of) estimated tax deductions.

1. Such declaration shall be filed upon a form furnished by or obtainable upon request from the Tax Administrator, which form or forms shall contain a statement that the figures used in making such declaration are the figures used in making the declaration of the

estimate of the taxpayer's federal income tax liability, adjusted to report that income which is taxable under the provisions of this chapter. Credit shall be taken for the City of Oakwood tax to be withheld. In accordance with the provisions of Section 148.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

2. The original declaration (or any subsequent amendment thereof) may be amended at any time.
3. An amended declaration must be filed on or before January 31 of the following year or, in the case of a taxpayer on a fiscal year, on or before the date fixed by regulation of the Tax Administrator if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by ten percent or more. At such time a payment shall be made which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability. If upon the filing of the return required by Section 148.05, it appears that the taxpayer did not pay ninety percent of his tax liability as shown on said return on or before January 31 (or the date fixed by regulations, whichever is applicable), the difference between ninety percent of the taxpayer's tax liability and the amount of estimated tax actually so paid shall be subject to the interest and penalty provisions of Section 148.10 of this chapter.

D. Payment of estimated tax amounts shall be made as follows:

1. At least one fourth of the estimated annual tax, less credit, shall be paid when the declaration is to be filed; and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year. If an amended declaration of estimated tax has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
2. The last quarterly payment of estimated tax need not be made if the taxpayer files his final return and pays the balance of the tax due thereon within forty five days following the end of the taxable year.

148.08 DUTIES AND POWERS OF THE TAX ADMINISTRATOR.

A. It shall be the duty of the Tax Administrator to receive tax payments from the taxpayers, to keep an accurate record thereof, and to report daily all money so received. In addition, the Tax Administrator shall enforce payment of all taxes owed to the City and shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return,

including taxes withheld, and showing the dates and amounts of payments thereof.

B. The Tax Administrator is hereby charged with enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Adjudication, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and administration, interpretation, application and enforcement of this chapter, including provisions for the reexamination and correction of returns.

C. If the Tax Administrator determines that a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may, subject to Subparagraph C 1 c of this Section 148.08, assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

1. General provisions as to assessment, interest and penalties and other decisions of the Tax Administrator:

a. Proposed assessments. If the Tax Administrator determines that a taxpayer has a tax liability for which he has filed no return, has filed an incorrect return or has failed to pay the full amount of tax due, the Tax Administrator may cause the issuance of a proposed assessment showing the amount of tax due together with any penalty and interest that may have accrued thereon.

i. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address together with a notice setting forth the taxpayer's right to appeal the assessment and the manner in which to appeal. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof of receipt thereof by the addressee.

ii. A taxpayer may, within thirty days after the date the proposed assessment was served or mailed, file a written protest with the Tax Administrator, or the taxpayer may proceed as under subsection 148.08(b)(i) below. If no protest is filed to a proposed assessment, it shall become final thirty days after being served unless the taxpayer has elected to proceed under subsection 148.08(b)(i). If a protest is filed, within thirty days after receipt of the protest, the Tax Administrator shall give the protestant an opportunity to be heard, and the Tax Administrator may extend the date of hearing for good cause shown. Said hearing shall be a meeting with the Tax

Administrator at which the taxpayer may present records and facts in support of his or her position. Based on the facts and documentation gathered at the hearing, the Tax Administrator shall withdraw, adjust or reaffirm the assessment by issuance of a final assessment.

- b. After a proposed assessment becomes final, notice of such final assessment may be issued and shall be served in the same manner as a proposed assessment. Said notice shall inform the taxpayer of his/her right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
 - i. A taxpayer who is aggrieved by a decision by the tax administrator and who has filed with the City the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision shall have thirty days after the date the Tax Administrator issued the final assessment or other decision aggrieving the taxpayer to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall state why the decision should be deemed incorrect or unlawful and shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Tax Administrator who shall, open the appeal envelope and deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice-Chairman of that board.
 - ii. Within thirty days of receipt of the "Appeal to Board of Tax Appeals", the Tax Administrator shall also deliver to the board in a similar manner a certified transcript of all actions taken with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his/her counsel.
 - iii. Any taxpayer against whom a final assessment has been issued or who has otherwise been aggrieved by a decision of the Tax Administrator and who has properly filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals within forty-five days after the Board has received the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear

before the Board. The Tax Administrator shall be deemed a party to the appeal. At such hearing the appellant and the Tax Administrator shall be given opportunity to present evidence relating to the said final assessment. The appellant shall proceed first and shall have the burden of proof.

- iv. The Board of Tax Appeals shall issue a decision to affirm, reverse or modify the final assessment within ninety days after the conclusion of the hearing and shall furnish a copy of its decision by ordinary mail to all of the parties to the appeal within fifteen days after issuance of its decision.
- c. A taxpayer aggrieved by a decision shall have sixty (60) days after notification of the municipal Board of Tax Appeals' decision to file a notice of appeal with the State Board of Tax Appeals or court of common pleas as provided in Ohio Revised Code section 5717.011. A copy of such notice of appeal shall be served on the Tax Administrator by hand delivery or mail on the date of filing. After sixty (60) days have elapsed without such appeal, the decision of the Municipal Board shall be deemed final, and any such resulting balance or required documentation shall be submitted within fifteen (15) days from expiration of the sixty (60) day period, including any related charges of penalty and/or interest.
- d. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay said tax to the Tax Administrator as required by this Chapter, the Tax Administrator need not issue an assessment but may proceed under the provisions of Sections 148.11 and 148.12 of this chapter. (See 148.12 A 2.) When any taxpayer subject to the provisions of this chapter has failed to file a return as required by this chapter, the Tax Administrator need not issue an assessment but may proceed under the provisions of section 148.12 B of this chapter.
- e. Prior to receipt of final assessment notification, a taxpayer who is dissatisfied with any ruling or decision of Tax Administrator may appeal to the Board of Tax Appeals within 30 days from the announcement of such ruling or decision. Such written notice of appeal shall be specific in nature and filed in accordance with sub-section C 1 b i of this Section 148.08.

2. Assessment provisions affecting employers:

- a. If the Tax Administrator determines that an employer subject to the provisions of this chapter, has failed to withhold tax, has failed to file a return for tax withheld and/or has failed to pay the full amount of said taxes, the Tax Administrator may issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon. Thereafter the provisions of Paragraphs C 1 of this Section 148.08 shall apply.
- b. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay said tax to the Tax Administrator as required by this chapter, the Tax Administrator may proceed under the provisions of Sections 148.11 and 148.12 of this chapter and need not issue an assessment as provided in this Section 148.08. (See Section 148.12 A 2.)

D. Payment of tax assessments shall be made as follows:

1. Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount thereof within thirty days after service of such final assessment.
2. Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals shall pay the amount determined to be due by the Board of Tax Appeals and/or submit the information/documentation deemed to be necessary as ruled by the Board of Tax Appeals within fifteen (15) days after service on him of the Board's decision.

E. Extensions: The Tax Administrator shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return. The Tax Administrator may require a tentative return, accompanied by the amount of tax set forth therein as being due, by the date the return normally is due.

1. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Administrator no later than the last day on which the municipal income tax return is due.
2. For taxable years beginning after 2003, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has

- been extended.
3. Any taxpayer that is subject to Oakwood municipal tax on the net profit from a business or profession and has received an extension to file federal income tax return shall not be required to notify the City of Oakwood of the federal extension and shall not be required to file the municipal income tax return until the last day of the month to which the due date for filing the federal return has been extended, provided that, on or before the date for filing the municipal income tax return, the person notified the Tax Administrator of the federal extension through the Ohio business gateway.
 4. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:
 - a. fails to timely file the request; or
 - b. fails to file a copy of the federal extension request, (if applicable); or
 - c. owes the municipality any delinquent income tax, penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax; or
 - d. has failed to file any required income tax return, report, or other related document for a prior tax period.
 5. The granting of an extension for filing a municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest shall apply to any unpaid tax during the period of extension at the rates and in the manner set forth in section 148.10.

F. When requested by a taxpayer, the Tax Administrator may authorize partial payments of unpaid taxes if in his judgment the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due and such deferred payments are the best means of accomplishing the intent of this chapter. The Tax Administrator shall not authorize an extension of time for the payment of said taxes due for more than 12 months beyond the date of the filing of the request.

148.09 INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

- A. The Tax Administrator or any authorized employee is hereby authorized to examine the books, papers, records and copies of federal income tax returns of any employer or of any taxpayer or person subject to, or whom

the Tax Administrator believes is subject to, the provisions of this chapter. The official duties of the Finance Director shall include overseeing the work of the Tax Administrator and said Finance Director shall have access to and the right to inspect all records required to perform his or her legally delegated duties of overseeing administration and enforcement of the tax laws of the city of Oakwood. The purpose of such examination shall be to verify 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 and supposed taxpayer is hereby directed and required to furnish within ten days following a written request by the Tax Administrator or his duly authorized agent or employee the means, facilities and opportunity for making such examinations.

B. The Tax Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and to 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. For this purpose the Tax Administrator may compel the production of books, papers, records and copies of 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 copies of 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 chapter or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this section, punishable as provided in Section 148.12 of this chapter.

D. Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes which shall include but shall not be limited to the exchange of income tax information with other government entities, and except when ordered by a court of competent jurisdiction. Any person divulging such information in violation of this section shall, upon conviction thereof, be deemed guilty of a first degree misdemeanor. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City of Oakwood who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

1. Notwithstanding anything to the contrary, the Tax Administrator may release to the Finance Department statistics, for use in preparation and publication of the Comprehensive Annual Financial Report, statistics in a form that does not disclose information with respect to particular taxpayers. For purposes of this section, statistics shall mean (i) the ranking, in order of the total amount withheld (without revealing the actual amount withheld) and remitted to the city, of the top ten (10) income tax withholders by year; and (ii) aggregate income tax paid or withheld by taxpayer type.

E. 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, whichever is later.

148.10 INTEREST AND PENALTIES.

A. All taxes imposed and all sums of money withheld or required to be withheld by employers under the provisions of this chapter which remain unpaid ten days after they become due shall bear interest at the rate of one and one-half percent per month or fraction thereof.

B. In addition to interest as provided in paragraph A hereof, underpayment penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due, on net income (of an individual, business or other taxable entity) one-half of one percent per month (or fraction thereof) or ten percent of the net taxes due, whichever is greater.
2. For failure to withhold and/or remit taxes due on employees' wages withheld from employees, three percent per month (or fraction thereof) or ten percent of the taxes to have been withheld or remitted, whichever is greater.
3. When the taxpayer has failed to file a declaration on which he has estimated and paid a tax at least equal to the tax paid for the previous year, or a tax at least equal to ninety percent of the actual tax due for the current year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year, ten percent of the difference between ninety percent of the actual tax for the year and the amount paid through withholding and/or declaration.
4. Except in the case of fraud, the underpayment penalty shall not exceed fifty percent of the unpaid tax.

C. Exceptions. An underpayment penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed. In the absence of fraud, neither underpayment penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed under this chapter and the additional tax is paid within three months after final determination of the federal tax liability.

D. After receiving the recommendation of the Tax Administrator, and except in the case of fraud, the Board of Adjudication may abate underpayment penalty or interest, or both in individual cases and/or may adopt, alter or revoke a general policy regarding the abatement of underpayment penalty, interest or both, and apply that policy to taxpayers.

E. In no case shall underpayment penalty and/or interest charges be levied when the total of such underpayment penalty and/or interest amounts to less than \$1.00.

F. Any person required to withhold the tax who knowingly fails to do so or to pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof shall be liable to an underpayment penalty equal to the total amount of the tax evaded or not withheld or not paid over. No other underpayment penalty under this section shall be applied to any offense to which this underpayment penalty is applied.

G. For failure to file any complete income tax or withholding return by the due date, including due dates extended as set forth in Section 148.08(E), there shall be due a non-filing penalty in addition to all other penalties and interest, even if no tax is due. This non-filing penalty shall apply to any return filed, or required to be filed, on or after January 1, 2014. The amount of the non-filing penalty shall be twenty-five dollars (\$25.00) for any return that is filed from one (1) to thirty (30) calendar days after the due date, and shall increase to fifty dollars (\$50.00) thereafter. In cases where a return is filed but incomplete and the defect is timely cured in response to a request from the Tax Administrator, the Tax Administrator shall have discretion to waive the non-filing penalty.

H. Interest and underpayment penalty, but no non-filing penalty will be assessed where an extension has been granted by the Tax Administrator and the final tax paid within the period as extended.

148.11 COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS.

A. All taxes imposed by this chapter shall be collectible by civil suit as other debts of like amount are recoverable, together with any interest and penalties, and attorneys' reasonable fees incurred by the city with regard to that litigation; any legal services rendered leading up to litigation and any legal services rendered in connection with collection efforts whether or not litigation results. Except in the case of fraud, omission of twenty five percent of income subject to this tax, or 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; provided, however, that if 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 one year from the time of the final determination of the federal tax liability.

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

C. The tax liability of a non-resident working both inside and outside the corporate limits of the city shall be computed on the formula of the total number of days worked in the city, divided by the total number of days worked during the year,

excluding holidays, vacation and sick leave time, and the resulting percentage applied to the total related annual income from gross wages, salaries and other compensation. Where no records can be substantiated regarding the total number of days worked during the year, the figure 260 is to be used as the base number of days worked. A listing of the specific dates and work locations for days worked outside the corporate limits of the city and employer certification shall be required.

D. Where a non-resident works both inside and outside the corporate limits of the City of Oakwood, but such work does not conform to a day in or a day out pattern, such as a mail carrier route, a substitute refund computation may be used, at the discretion of the Tax Administrator, whereby the employer certifies the percentage of time the employee worked in various jurisdictions during the year.

E. Additional amounts of less than \$1.00 shall not be refunded or assessed.

148.12 CRIMINAL PENALTIES.

A. Exceptions from the criminal penalties of this section are as follows:

1. Any person subject to the provisions of this chapter who has filed an incorrect return or who has failed to pay the full amount of tax due shall not be deemed to have committed an offense punishable under the provisions of this section until any assessment issued against him under Section 148.08 above has become final and the time for payment thereof has expired.
2. Any person who has filed a return under the provisions of this chapter indicating the amount of tax due and has failed to pay said tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in Paragraph B 3 below until the date of filing such return, or until such time as any assessment issued against that person under Section 148.08 above has become final and the time for payment thereof has expired, whichever occurs earlier. (See Section 148.08 C 1 c and C 2 b.)

B. Every person shall be guilty of a first degree misdemeanor for each of the following acts which such person may do:

1. Recklessly fail or knowingly refuse to make any return or declaration required by this chapter; or
2. Knowingly make an incorrect return; or
3. Knowingly fail or refuse to pay any obligations imposed by this chapter; or

4. Knowingly fail or refuse to withhold the tax from his employees and remit such withholding to the Tax Administrator; or
5. Knowingly refuse to permit the Tax Administrator or duly authorized agent or employee to examine his employer's books, records, papers and copies of federal income tax returns relating to the income or net profits of a taxpayer; or
6. Knowingly fail to appear before the Tax Administrator and to produce his employer's books, records, papers or copies of federal income tax returns relating to the income or net profits of a taxpayer; or
7. Knowingly refuse to disclose to the Tax Administrator any information with respect to the income or net profit of a taxpayer; or
8. Knowingly fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
9. Knowingly attempt to do anything whatever to evade the payment of the whole or any part of the obligations imposed by this chapter.

C. In addition to the meaning prescribed in Section 148.02 of this chapter, the term "person" as used in this section shall include (in the case of an association or corporation not having any partner, member or officer within the City of Oakwood) any employee or agent of such association or corporation who can be found within the corporate limits of the City.

D. All prosecutions under this section must be commenced within three years after the commission of the offense, except that in the case of fraud, failure to file a return, or the omission of twenty five percent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

E. The failure of any employer, taxpayer or person to obtain or receive any form shall not excuse him from the duty of completing and filing such form or from paying the tax.

148.13 BOARD OF ADJUDICATION AND BOARD OF TAX APPEALS.

A. Board of Adjudication.

1. A Board of Adjudication is hereby created to consist of the City Manager or a person designated by him, the Director of Finance or a person designated by him, and the City Attorney or his/her designated Assistant City Attorney. The board may select one of its

members each year to serve for a one year term as chairman and may elect a secretary in similar manner. A majority of the members of the board shall constitute a quorum.

2. The board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the board shall be conducted privately and the provisions of Section 148.09 above with reference to the confidential character of information required to be disclosed by this chapter shall apply to all matters presented to the Board of Adjudication.
3. After receiving the request or recommendation of the Tax Administrator as to modification of any assessment of, or collection procedure or refund regarding, any tax, penalty and/or interest, the board shall have the authority to make a decision on any such matter in individual cases and/or to adopt, alter or revoke a general policy to be followed as to all taxpayers.

B. Board of Tax Appeals. (See ADMIN 160.02 for subpoena power)

1. A Board of Tax Appeals is hereby created consisting of three representative citizens of the City of Oakwood (who are not employees of the city but who may serve on other citizen boards and commissions of the city) to be appointed by the City Council for a term of three years. One of the members of the board shall be chosen by the members as chairman of the board, and all may receive per diem compensation if such compensation is authorized by the City Council. A majority of the members of the board shall constitute a quorum.
2. The board may adopt its own procedural rules and keep a record of its proceedings. Such records are not public records available for inspection under Ohio Revised Code 149.43. All hearings by the board may be conducted privately and the provisions of Section 148.09 above with reference to the confidential character of information required to be disclosed by this chapter shall apply to all matters presented before the board. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Ohio Revised Code section 121.22 or to Oakwood Ordinance section 111.15.
3. The board shall have jurisdiction to hear appeals filed by taxpayers as provided in Section 148.08 of this chapter and to affirm, reverse or modify any assessment, ruling or decision, or any part thereof made by the Tax Administrator from which such an appeal has been filed. The board shall determine the facts and shall apply the

income tax law as set forth in this chapter but shall not have authority to vary or waive or refuse to apply any provision of the municipal income tax law of this City.

148.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be allocated in such manner as may be determined by the Council of the City of Oakwood.

148.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

A. If a resident of the City of Oakwood is subject to a municipal income tax in another municipality as well as in this City, he shall not pay a total municipal income tax (on the same income) greater than the tax imposed at the highest rate to which he is subject.

B. Every individual who resides in the City of Oakwood who receives net profits, qualifying wages, commissions or other taxable income for work done or services performed or rendered outside the City of Oakwood, and who is liable and has paid to another municipality an income tax on the same income taxable and taxed under this chapter, shall be allowed a credit against the tax imposed by this chapter (on the same income to the extent such income is taxed under this chapter) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the Oakwood tax imposed on the income earned in the other municipality(ies) where such tax is paid.

The amount of net profit income earned in and taxed by a given municipality (as a percentage of total net profit income attributable to taxing and non-taxing jurisdictions) shall be used to determine each municipality's contribution to net Oakwood taxable income, prior to calculation of the resident city credit for taxes paid to other cities on net profit income. The rate to be used for calculation of this credit shall be the lesser of the resident city tax rate or the appropriate rate at which such income was taxed by such other municipality. The resident city credit(s) for taxes paid to another municipality(ies) on business activity net profits shall be calculated as follows:

Oakwood net profits taxable income (\$) X municipality contribution (%) X tax rate (%) = allowable credit.

C. A claim for refund or credit under this section may be made in such manner as the superintendent may by regulation provide.

148.16 SAVING CLAUSE.

The income tax of the City of Oakwood shall not apply to any person or income who or which is beyond the power of the City Council to tax under this chapter. 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 or tax and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter or tax. It is hereby declared to be the intention of the Council of the City of Oakwood that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

148.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

A. If the municipal income tax levied by this chapter is replaced, the provisions of this chapter shall continue in effect (insofar as the collection of taxes levied hereunder and proceedings to enforce any language of this chapter are concerned) until all of said taxes are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated.

B. If this chapter is repealed, annual returns due for all or any part of the last effective year of the municipal income tax of this City shall be due on the date provided in Sections 148.05 and 148.06 above as though this chapter were still in effect.

Legislative History: Ord. 2558, passed 4/15/68; Ord. 2857, passed 1/7/74; Ord. 2864, passed 3/8/74; Ord. 2881, passed 5/20/74; Ord. 2910, passed 3/17/75; Ord. 2945, passed 12/22/75; Ord. 3416, passed 4/16/84; Ord. 3417, passed 5/21/84; Ord. 3444, passed 8/27/84; Ord. 3450, passed 9/10/84; Ord. 3451, passed 10/1/84; Ord. 3506, passed 10/7/85; Ord. 3507, passed 10/7/85; Ord. 3512, passed 10/21/85; Ord. 3526, passed 12/16/85; Ord. 3592, passed 10/20/86; Ord. 3659, passed 6/1/87; Ord. 3818, passed 11/21/88; Ord. 3911, passed 11/6/89; Ord. 3983, passed 7/9/90; Ord. 4026, passed 12/17/90; Ord. 4041, passed 2/4/91; Ord. 4048, passed 4/1/91; Ord. 4102, passed 12/23/91; Ord. 4145, passed 7/29/92; Ord. 4178, passed 12/21/92; Ord. 4219, passed 10/4/93; Ord. 4355, passed 12/16/96; Ord. 4470, passed 8/21/00; Ord. 4473, passed 11/20/00 - effective 1/1/01; Ord. 4541, passed 9/15/03 - effective 10/15/03; Ord. 4559, passed 10/4/04; Ord. 4683, passed 9/21/09 - effective 10/21/09; Ord. 4685, passed 12/14/09; Ord. 4781, passed 12/9/13.

**CITY OF OAKWOOD
MUNICIPAL INCOME TAX
RULES AND REGULATIONS**

**ARTICLE XIX
SPECIAL RULINGS**

ALIMONY

Alimony payments are not deductible from the gross income of the payer; likewise, alimony payments are not taxable to the recipient.

BANKRUPTCY

1. Taxes due are not canceled by a discharge in bankruptcy and any balance due may be collected by civil suit.
2. Interest and penalties accruing after the filing of a petition in bankruptcy are recoverable. (Bruning vs. 192 Federal Supplement 826)

BANKS

1. State banks cannot be taxed on their income from intangibles, but are taxable on other income in the same manner as other corporations. (Ohio Finance vs. City of Toledo)
2. Expenses incurred in securing non-tangible income may not be considered, in calculating the net profits from taxable income. (Art. III, A.6, C.07))
3. Banks cannot be required to file separate returns for their banking and real estate activities.

BUILDING AND LOAN COMPANIES

Only their income from intangibles and capital gains is exempt from taxation. (Ohio Finance vs. Toledo)

CAPITAL GAINS

1. Capital gains from the sale or exchange or other disposition of property shall not be taken into consideration in arriving at net profits earned.
2. Any amount received on a sale or other disposition of tangible personal property used in trade or business in excess of book value, shall be treated as taxable income under the Ordinance to the extent of depreciation allowable after January 1, 1962. The balance shall be treated as a capital gain.
3. Ordinary gain realized from the disposition of real property (held more than six (6) months) used in trade or business shall be treated as taxable income in the same amount as computed for Federal purposes in accordance with existing Internal Revenue Codes.
4. If taxpayer shows over 50% of his gross income as attributable to capital gains, it should be verified that he is not actually engaged in such business.

CAPITAL LOSSES

Capital losses are not deductible.

CARRIERS

Carriers operating under a certificate by the P.U.C.O. are immune, under the Ohio Revised Code exemption of motor carriers, from City income tax, even though the certificate under which they are operating is held by someone else.

CHURCHES

Income from property owned by churches and not incidental to its activities is taxable. (To the extent such income is not derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.) (Section 148.03. I 1)

CONTRIBUTIONS

Allowable deductions by corporations only. Limited to 10% of city base income. Carry-over and carry-back will not be recognized as a deduction.

CREDITING OF PAYMENTS

1. Payments to be applied first to settlement of assessment of oldest year unless taxpayer specifies the payment is for taxes of a particular year.
2. A tax payment submitted for one year cannot be credited to an assessment for a prior year without notifying the taxpayers.

DIVISION OF FUNDS

The Tax Administrator may grant permission to file on a separate accounting basis providing each division doing business in the City files for all taxable years on such basis.

EMPLOYEE

1. The question of whether an individual is an employee or an independent contractor is determined on the basis of how he is treated for Federal income Tax purposes. If any of the following is done, the individual is an employee:
 - A. Wages withheld for federal income tax purposes
 - B. Withholding for Social Security.
 - C. Payment of Workmen's Compensation by an employer for his/her benefit.
2. Employee is to be considered as reporting on a cash basis.
3. Contributions by an employer to a retirement system on behalf of his employees are deductible in the same amount and at the same time as permitted by the appropriate section of the Internal Revenue Code.
4. Schedule A - Expenses (with the exception of 2106 Employee Business Expenses) are personal deductions of a wage earner; not deductible for city income tax purposes.

ESTATES

Taxes owed by decedents may be collected from his estate and the mere fact that an estate is not probated does not cancel a tax obligation.

EXEMPTION

Burden of proof is on the prospective taxpayer.

EXPENSES

1. Judgment of personal injuries taken against an owner of real property used in business is a deductible expense.
2. Attorneys fees that are related to taxable activities are deductible expenses.
3. Unless the taxpayer can present definite records of actual costs, a formula of 5% of unearned income will be considered as the applicable expense incurred in the production of non-taxable income. The ratio of non-taxable income to total income will often be a more equitable percentage.
4. The 5% add back rule applies only to the net profits on business and professions, not to persons whose only taxable income is from wages.

FEDERAL EMPLOYEES

1. Taxable by city on the same basis as any privately employed person. (Buck Act 1940-4 U.S.C. Section 105-100), Ohio (Porges vs. Schiele, Hamilton County Court Common Pleas, #A-164981, 9-9-59), Springfield vs. Saunders, Clark County Court of Appeals (1962, 179 N/E2nd 370)
2. Non-residents are taxable even though working in area within the City exclusively under the jurisdiction of the United States. (Thompson vs. Philadelphia (1958) 258 F.2d 320, Ort, den.

358 U.S. 931, 79 S ct 317, 43h. den. 2/24/59)

FEES

Fees paid a realtor for arranging a loan are taxable.

FELLOWSHIP GRANTS

Fellowship grants are not taxable to the extent of tuition, room and board. Stipends received for work done and services performed are taxable.

FORMULA

1. Required where the parent corporation sells its products to its local officers at a profit.
2. Geographic location of mobile equipment governs its tax liability both when in use and at rest.
3. Wages, salaries and other compensation for personal services are defined as payments made by the employer directly to employees and not to any sub-contractor. Therefore, individual payments for labor to a sub-contractor may not be included as wages in computing the percentage applicable to Oakwood.

GROUND RENTS

1. Ground rents are defined as income received from perpetual leases which the lesser does nothing to receive the rents. A monthly rental contract is not ground rent even though the lessee does nothing.
2. To be earned income, it must be the result of labor, management or supervision of real estate (Murray vs. Philadelphia 363 Pa524); and since ground rents are the same as receipts from intangibles, they are not taxable.

GROUP TERM INSURANCE

Employer paid premiums for group term life insurance for coverage up to \$50,000 are not taxed to the employee. The cost of coverage over \$50,000 provided by one or more employers is taxable to the employee in his tax year in which the premiums are paid. (IRS Code Sec. 79)

INCOME

Payments for suggestions for improving a business are taxable.

INDEPENDENT CONTRACTORS

List of independent contractors must be furnished even though payment is on a commission basis.

INSURANCE

1. When a domestic insurance company has filed a certificate that it is so classified, it need not file a declaration or final return. (5725.18 Revised Code)
2. With respect to non-resident agents, if sales only are used, situs of personal life insurance is the residence of the insured. Sales of commercial life insurance, partnership insurance, etc. is the business location of the insured.
3. Terminal payments: when a guaranteed continuance of wages for a specified period has been agreed to with a union, such payments are considered insurance and not taxable as wages when no personal services are performed.

INSURANCE AGENTS

Commissions received by heirs, after the death of the agent, are not earned income and non-taxable.

INTANGIBLE INCOME

1. The Tax Administrator may require proof of payment of the 5% state tax measured by yield before declaring such income exempt.
2. Dealers in intangibles are not taxed on that income which is subject to taxation under the

- Intangible Tax Law of Ohio.
3. Income from collection of notes purchased at a discount from the seller of merchandise is intangible income and not taxable if the purchaser shows proof of payment of the 5% intangible tax to the State. However, the mercantile company retaining its notes cannot claim these as intangible income.

INVESTMENT INTEREST EXPENSE

Investment interest expense is deductible only to the extent that it is a result of a taxable operation.

LOANS

By professional persons to clients are not deductible.

LOSSES

1. Audit: On the basis of municipal, not federal regulations.
2. Business losses only will be permitted.

MANUFACTURERS' AGENTS

Sales by persons who are independent contractors who do not come under the definition of an employee may not be used in computing the sales factor of the formula by the taxpayer selling to such independent contractor.

MOVING EXPENSES

All reimbursements and other payments to both old and new employees for moving expenses are to be included in gross income. (I.R.S code Section 82, 1.82-1 (2) (2) and (3). For allowable expenses refer to section 217 I.R.S. Code.

NON RESIDENT

1. Non-resident employers doing business in a municipality must withhold on their employees.
2. A non-resident is taxable on entire pay until substantiation from employer is submitted.

PAY

1. Severance pay is taxable.
2. Sick and vacation pay is taxable on the same ratio as normal earnings.

RECORDS

1. Refunds may be withheld from an employee until the employer has filed withholding statements and paid the tax.
2. All forms required, including current declarations, completed schedules, and the furnishings of any information requested by an Auditor, are to be filed before a refund is processed.
3. Where an employee also has outside income upon which he has filed and paid, substantiation of the amount over-withheld will be required by the employer.
4. Refunds will not be made to an individual or business moving from the city until a return for the portion of the year involved has been filed and audited.

RENTALS

1. Received by a corporation from property outside the corporate limits are not taxable, even though the stockholders may be residents.
2. Fair rental value of a parsonage is not considered taxable income.

RESIDENCE

1. An individual retaining his domicile within the city is liable for the tax on his wages even though said wages are received for work done outside the city.

RETIREMENT PLANS

1. Contributions by an individual to the following retirement plans are not to be excluded from taxable income:
 - A. Keogh Plans
 - B. Individual Retirement Accounts (IRA)
 - C. State of Ohio Deferred Compensation Plans
 - D. International City Managers Association Retirement Cor. (I.C.M.A.)
 - E. Tax Shelter Annuities
 - F. 401-K

Income tax notice was effective January 1, 1975. (Law Dept. Opinion 7/21/77)

2. Other plans:

There are varying types of retirement and benefit plans employers may establish for their employees. Due to this variety, no specific statement as to the taxable or non-taxable status to the employee can be made. The determination of the taxable status of these plans will be on an individual basis.
3. For the purpose of determining compensation that is subject to the municipal income tax of this city, the gross wages or other compensation of any person subject to a retirement plan "pick up" by this city or any other public employer shall include the "pick up" portion paid by the employer, whereas for federal and state income tax purposes that portion shall not be deemed to be part of any wages, salary or other compensation.

RETURNS

1. Any firm engaged in business in the city must file until declared non-taxable.
2. Returns are required even where the tax liability is the same as the amount declared or almost entirely from non-taxable sources.
3. Where a corporation owning other companies has reported on a consolidated basis, they must continue to do so and where the taxpayer has been reporting for each of its companies, it must continue such separate system until change is authorized by the Tax Administrator.
4. Formula

Expenses of a national organization filing under separate accounting may not be disallowed merely because they pertain to the national office.
5. Trustees

Trustees are required to file returns on the trust even though the tax is paid by the recipient and the said return must give the names and addresses of the beneficiaries of the trust.
6. Married persons may file joint returns.

ROYALTIES

Royalties are taxable if not taxed by the State as productive intangible investments such as income from patents and copyrights. Royalties derived from land leases (mineral rights, oil, gravel, etc.) are taxable.

SOLICITATION

1. Soliciting within the corporate limits on a regular basis is a taxable activity regardless of where the sale is consummated.
2. Telephone orders given as a result of telephone solicitation made outside the corporate limits with no other solicitation are not taxable.

STATE INCOME TAXES

No credit will be allowed for state income taxes paid, but credit will be allowed for taxes owed and paid another municipality on the same income within or outside the State of Ohio.

STOCK OPTIONS EXERCISED

Municipal Income Tax

Qualified: When stock acquired under a qualified stock option is sold or exchanged before it is held 3 years, there may be ordinary income (difference between option price and market value on date of exercise) plus capital gain for any amount received above the market value on date of exercise. That portion considered to be ordinary income is subject to municipal tax. That portion considered capital gain is not taxable.

Non-Qualified: Based on I.R.S. Code Section 421, the employee will realize income at the time when the option is exercised and the spread between the option price and fair market value of the stock will be compensation taxable as ordinary income at the time of exercise.

TRUSTEE

The trustee has primary responsibility for reporting and paying taxes on income taxable under the Ordinances. However, this does not relieve the beneficiary of the responsibility when the trustee does not report and pay.

VOW OF POVERTY

Salaries and wages are not considered received by the individual member but by the order of organization. Section 501d of the I.R.S. Code prohibits taxation of apostolic associations or organizations.

WITHHOLDING

Non-resident employers not required to withhold but doing so voluntarily will be assessed for late filing of withholding taxes.