B-102 Presented by the Administration

CITY OF CUYAHOGA FALLS, OHIO

ORDINANCE NO. 93 - 2015

AN ORDINANCE AMENDING AND/OR SUPPLEMENTING TITLE 7 TAXATION, CHAPTER 161 INCOME TAX, AND ENACTING CHAPTER 164, MUNICIPAL INCOME TAX, TO COMPLY WITH STATE LAW MANDATES, AND DECLARING AN EMERGENCY.

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVII, Section 3, provides that "municipalities shall have authority to exercise all powers of local self-government," and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipality's power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that "laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;" and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted H. B. 5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is "levied in accordance with the provisions and limitations specified in Chapter 718"; and

WHEREAS, upon a detailed review of H. B. 5 and the Codified Ordinances of the City Cuyahoga Falls, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County of Summit, and State of Ohio, that:

Section 1. Title 7, Taxation, Chapter 161, Income Tax, is hereby amended and/or supplemented as follows (new text double underlined; deleted text in ~~strikethrough~~):

161.04 EFFECTIVE PERIOD.

a) The tax herein provided shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from April 1, 1967.

b) Chapter 164 does not repeal the existing Chapter 161. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to

administer, audit, and enforce the income tax of the Municipality under Chapter 718 of the Ohio Revised Code, Chapter 161 of the Codified Ordinances, and the rules and regulations of the Municipality as that Chapter, ordinances, and rules and regulations existed before January 1, 2016.

161.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer shall whether or not a tax be due thereon, make and file a return on or before April 15 of each calendar year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed not later than the 15th day of the fourth month after the end of such fiscal year or period.

(b) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from such Tax Administrator setting forth:

(1) A. The aggregate amount of salaries, wages, commissions and other compensation earned;

B. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;

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

(2) A. The amount of tax imposed by this chapter on income reported;

B. Any credits to which the taxpayer may be entitled under the provisions of Sections 161.06, 161.07 and 161.15 of this chapter; and

(3) Such other pertinent statements, information returns or other information as the Tax Administrator may require.

(c) The Tax Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. Interest shall be assessed according to the provisions of Section 161.10 in those cases in which the return is filed and the final tax paid within the period as extended. No penalty shall be assessed in the above cases.

(d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the balance of tax due, if any, after deducting:

A. The amount of the City income tax deducted or withheld at the source pursuant to Section 161.06;

B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 161.07;

C. Any credit allowable under the provisions of Section 161.15.

(2) Should the return or the records of the Tax Administrator indicate an overpayment of the tax to which the City is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Tax Administrator in writing, shall be refunded or applied against any subsequent liability.

(e) (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax over paid, subject to the requirements and/or limitations contained in Sections

~~161.11 and 161.15. Such amended returns shall be on a form obtainable on~~ request from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

~~f)~~ A taxpayer may not change the method of accounting, apportionment of net profits or elect to file a consolidated return after the original due date of the filing.

161.13 BOARD OF REVIEW.

~~(a) A Board of Review, consisting of five members, one of which is to be Chairman, with each individual to be appointed by the Mayor, with the consent of Council, three individuals to serve for initial terms of one year and two individuals to serve for two years, respectively, and thereafter two year terms for all members. These public members shall not all be adherents to the same political party; they may be paid such per diem compensation as Council shall fix. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 161.09 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.~~The composition of the Board of Review shall be in accordance with Section 164.32(a).

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

~~(c)~~ Any person dissatisfied with any ruling or decision of the Tax Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days after service of such ruling or decision by the Tax Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

Section 2. Chapter 164, Municipal Income Tax, of the Codified Ordinances of the City of Cuyahoga Falls is hereby enacted to read in full as follows:

CHAPTER 164
Municipal Income Tax
Effective January 1, 2016
For taxable years beginning with taxable year 2016

164.01 AUTHORITY TO LEVY TAX.

a) The income tax and the withholding tax established by Cuyahoga Falls Codified Ordinances Chapter 164 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The income tax and the withholding tax established by this Chapter are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Chapter 718 of the Ohio Revised Code. This Chapter is deemed to incorporate the provisions of Chapter 718 of the Ohio Revised Code. To the extent that any provision of this Chapter conflicts with Chapter 718 of the Ohio Revised Code, said Chapter 718's provisions shall prevail.

b) The tax is an annual tax levied on the income of every person residing, earning, or receiving income within the City of Cuyahoga Falls and every entity residing, earning, or receiving net profits within the City of Cuyahoga Falls and the Boston Township-Cuyahoga Falls Joint Economic Development District. The tax shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

164.02 PURPOSE OF TAX; RATE.

a) To provide funds for the purposes of general municipal operations, maintenance, new equipment and capital improvements of the City of Cuyahoga Falls there is hereby levied a tax on salaries, wages, commissions, net profits, lottery, gambling, sports winnings, income from games of chance and other compensation as hereinafter provided.

b) An annual tax for the purposes specified in Chapter 164.01 shall be and is hereby imposed commencing on July 1, 1996, and continuing thereafter at the rate of two percent (2%) per annum on all taxable income.

164.03 ALLOCATION OF FUNDS.

The funds collected under the provisions of this Chapter shall be paid into the Income Tax Fund and applied for the following purposes in the order of their priority.

a) Such part thereof as shall be necessary to defray all costs of collecting, enforcing and administering the tax levied by this Chapter.

b) (1) For the payment of the City's share of the existing employees' retirement and pension systems supplementing the mandatory millage whenever and wherever necessary.

(2) Commencing July 1, 1996, at least twenty-nine and one-third percent (29 1/3%) of the net tax collected after subsection (a) has been met shall be transferred to the Capital Improvement Fund to be used for capital expenditures including the payment of debt service charges on bonds and notes issued to pay costs of those capital expenditures, but only for capital expenditures which have an estimated life or usefulness of five years or more; and at least eight percent of the net tax collected after subsection (a) has been met shall be transferred to the Recreation Levy Fund for

capital expenditures for parks and recreation facilities including the payment of debt service charges on bonds and notes issued to pay costs of those capital expenditures.

(3) The balance of funds remaining after payment of the expenses referred to in subsection (a) and the above paragraphs (1) and (2) of this subsection (b) shall be transferred to the General Fund to be used for the general operations of the City of Cuyahoga Falls.

c) Should the gross collection of this tax result in a reduction to paragraph (3) of subsection (b) over the year previous then paragraph (2) of subsection (b) may supplement paragraph (3) of subsection (b) to whatever extent possible or available as deemed feasible by Council.

164.04 EFFECTIVE DATE.

a) Ordinance 2015-____, effective January 1, 2016, and corresponding changes to Chapter 718 of the Ohio Revised Code, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 164 apply to taxable years beginning 2016 and succeeding taxable years.

b) Ordinance 2015-____ does not repeal the existing Chapter 161 for any taxable year prior to 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under Chapter 718 of the Ohio Revised Code, Chapter 161 of the codified ordinances, and the rules and regulations of the Municipality as that Chapter, ordinances, and rules and regulations existed before January 1, 2016.

164.05 DEFINITIONS.

Any term used in this Section that is not otherwise defined in this Section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless the context clearly requires or indicates a different meaning. If a term is used in this Section and it is not defined in this Section and it is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the law of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this Chapter, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this Chapter:

a) "ADJUSTED FEDERAL TAXABLE INCOME," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under Division (v)(4) of this Section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) 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.

(2) Add an amount equal to five per cent of intangible income deducted under (a)(1) of 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;

(3) 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;

(4) i. Except as provided in Division (a)(4)(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 (a)(4)(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.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(6) In the case of a real estate investment trust or 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;

(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the Ohio Revised Code;

(8) i. Except as limited by Divisions (a)(8)(ii), (iii) and (iv) of this Section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017. The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

ii. No person shall use the deduction allowed by (a)(8)(i) of this Section to offset qualifying wages.

iii. For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty per cent of the amount of the deduction otherwise allowed by Division (a)(8)(i) of this Section.

iv. For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by Division (a)(8)(i) of this Section.

v. Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to Division (a)(8)(i) of this Section.

vi. Nothing in Division (a)(8)(iii) of this Section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of Division (a)(8)(iii) of this Section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of Division (a)(8)(iii) of this Section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in Division (a)(8)(iii) of this Section shall apply to the amount carried forward.

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with Section 164.09(e)(3)(ii) of this Chapter.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with Section 164.09(e)(3)(ii) of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in Division (uu)(1) of this Section, is not a publicly traded partnership that has made the election described in Division (v)(4) of this Section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this Section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

b) (1) "ASSESSMENT" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 164.32, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(2) "ASSESSMENT" does not include a notice denying a request for refund issued under Division 164.19(b)(3) a billing statement notifying a taxpayer of current or past-due balances owed to the municipality, a request for additional information from the Tax Administrator, a notification to the taxpayer of mathematical errors, or the Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by Division (b)(1) of this Section.

c) "AUDIT" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

d) "CALENDAR QUARTER" means the three-month period ending on the last day of March, June, September, and December.

e) "CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE," and similar terms include any delivery service authorized pursuant to Section 5703.056 of the Ohio Revised Code.

f) "DISREGARDED ENTITY" means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

g) "DOMICILE" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. Domicile differs from residency. Although a person may have multiple residences, a person can have only one domicile.

h) "EMPLOYEE" means an individual who is an employee for federal income tax purposes.

i) "EMPLOYER" means a person that is an employer for federal income tax purposes.

j) "EXEMPT INCOME" means all of the following:

(1) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

(2) Intangible Income;

(3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in Division (j)(3) of this Section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.

(4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(5) Compensation paid to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year will be subject to taxation. The payer of such compensation is not required to withhold any tax from that compensation.

(6) Dues, contributions, and similar payments received by charitable, religious, educational, literary organizations, labor unions, lodges, and similar organizations;

(7) Alimony and child support received;

(8) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(9) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code. Division (j)(9) of this Section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.

(10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

(11) Compensation or allowances for the rental value of parsonages excluded from federal gross income under Section 107 of the Internal Revenue Code;

(12) Employee compensation that is not qualifying wages as defined in Division (hh) of this Section;

(13) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile in the City, tax on such income shall be payable to the City.

(14) All of the municipal taxable income earned by individuals while they are under eighteen years of age.

(15) i. Except as provided in Divisions (j)(15)(ii), (iii), and (iv) of this Section, qualifying wages described in Division 164.11(b)(1) or (e) of this Chapter to the extent the qualifying wages are not subject to withholding for the City under either of those Divisions.

ii. The exemption provided in Division (j)(15)(i) of this Section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

iii. The exemption provided in Division (j)(15)(i) of this Section does not apply to qualifying wages that an employer elects to withhold under Section 164.11(d)(2) of this Chapter.

iv. The exemption provided in Division (j)(15)(i) of this Section does not apply to qualifying wages if both of the following conditions apply:

a) For qualifying wages described in Section 164.11(b)(1), the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in Section 164.11(e), the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

b) The employee receives a refund of the tax described in Division (j)(15)(iv)(a) of this Section on the basis of the employee not performing services in that municipal corporation.

(16) i. Except as provided in Division (j)(16)(ii) or (iii) of this Section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than twenty days in a taxable year.

ii. The exemption provided in Division (j)(16)(i) of this Section does not apply under either of the following circumstances:

a) The individual's base of operation is located in the municipal corporation.

b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of Division (j)(16)(ii)(b) of this Section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 164.11 of this Chapter.

iii. Compensation to which Division (j)(16)(i) of this Section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

iv. For purposes of Division (j)(16)(i) of this Section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(17) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(18) Income that the constitution or laws of the United States prohibit from being taxed.

k) "FORM 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

l) "GENERIC FORM" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.

m) "INCOME" means the following:

(1) i. For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (v)(4) of this Division.

ii. For the purposes of Division (m)(1)(i) of this Section:

a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to Division (m)(1)(iv) of this Section;

b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

iii. Division (m)(1)(ii) of this Section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in Division (m)(5) of this Section.

iv. Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(2) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(3) For taxpayers that are not individuals, net profit of the taxpayer.

(4) Lottery, sweepstakes, gambling, sports winnings, winnings from games of chance, prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(5) In accordance with a ballot issue, regarding S corporation language, approved by the voters in the election on November 2, 2004, a shareholder's share of net profits of an S corporation are taxable to the municipality to the extent such shares would be so allocated or apportioned to the State of Ohio.

n) "INTANGIBLE INCOME" means 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, gambling winnings, or other similar games of chance.

o) "INTERNAL REVENUE CODE" means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

p) "LIMITED LIABILITY COMPANY" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

q) "LOCAL BOARD OF TAX REVIEW" means the entity created under Section 164.32 of this Chapter.

r) "MUNICIPAL CORPORATION" means, in general terms a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax or net profit tax under Sections 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code. The City of Cuyahoga Falls is a municipal corporation for purposes of this Chapter.

s) (1) "MUNICIPAL TAXABLE INCOME" means the following:

i. For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipality under Section 164.08, and further reduced by any pre-2017 net operating loss carryforward available to the person for the municipality.

ii. For an individual who is a resident of the municipality, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in Division (s)(2) of this Section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipality.

iii. For an individual who is a nonresident of the municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipality under Section 164.08 of this Chapter, then reduced as provided in Division (s)(2) of this Section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.

(2) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in Division (s)(1)(ii) or (s)(1)(iii) of this Section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but to the extent the expenses do not relate to exempt income. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation and are not related to exempt income.

t) "MUNICIPALITY" means the City of Cuyahoga Falls, and includes any joint economic development district or joint economic development zone that levies an income tax or net profit tax under Sections 718.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code or within which the City levies an income tax or net profit tax pursuant to said Sections of the Ohio Revised Code, including but not limited to the Boston Township-Cuyahoga Falls Joint Economic Development District.

u) "NET OPERATING LOSS" means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

v) (1) "NET PROFIT" for a person other than an individual means adjusted federal taxable income.

(2) "NET PROFIT" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of Division (v)(1) of this Section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in Division (a)(8) of this Section.

(3) For the purposes of this Chapter, and notwithstanding Division (v)(1) of this Section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(4) i. For purposes of this Chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

ii. For the purposes of this Chapter, and not withstanding any other provision of this Chapter, the net profit of a publicly traded partnership that makes the election described in Division (v)(4) of this Section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

iii. A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by the municipality, may elect to be treated as a C corporation. The election shall be made on the annual return for the municipality. The municipality will treat the publicly traded partnership as a C corporation if the election is so made.

iv. The individual owners of the partnership not filing as a C corporation are required to file with their municipal corporation of residence, and report partnership distribution of net profit.

w) "NONRESIDENT" means an individual that is not a resident of the City of Cuyahoga Falls.

x) "OHIO BUSINESS GATEWAY" means the online computer network system, created under Section 125.30 of the Ohio Revised Code, that allows businesses to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

y) "OTHER COMPENSATION" all forms of earned income including but not limited to severance pay, tips, tax shelter plans, gifts of any type for services rendered, vacation and holiday pay, wage continuation benefits, director's fees, jury duty fees, stock options granted in connection with the performance of service and not designated as capital gains, property in lieu of cash, sick pay, bonuses, incentive payments in whatever form, company closing benefits, earnings designated as deferred compensation or compensation paid by an employer in whatever form for services rendered, employer paid premiums for group-term insurance in excess of fifty thousand dollars ($50,000), strike benefits, depreciation recapture, ordinary income shown on the federal form 4797, and a resident partner's or stockholder's distributive share of a nonresident partnership or S-corporation net profits. If income appears as part of Medicare wages on a W-2 form and is not shown to be an exception in accordance with Section 164.05(j) it shall be considered other compensation and is therefore taxable to the individual.

z) "OTHER PAYER" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

aa) "PASS-THROUGH ENTITY" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

bb) "PENSION" means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

cc) "PERSON" includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

dd) "POSTAL SERVICE" means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

ee) "POSTMARK DATE," "DATE OF POSTMARK," and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed.

ff) "PRE-2017 NET OPERATING LOSS CARRYFORWARD" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by 161.03(c)(1) through (3) to be carried forward and utilized to offset income or net profit generated in the municipality in future taxable years. For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the ordinance or until fully utilized, whichever is earlier.

gg) "PUBLICLY TRADED PARTNERSHIP" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

hh) "QUALIFYING WAGES" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(1) Deduct the following amounts:

i. Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.

ii. Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

iii. Any amount included in wages that is exempt income.

(2) Add the following amounts:

i. Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

ii. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (hh)(2)(ii) of this Section applies only to those amounts constituting ordinary income.

iii. Any amount not included in wages if the amount is an amount described in Sections 401(k), 403(b), or 457 of the Internal Revenue Code. Division (hh)(2)(iii) of this Section applies only to employee contributions and employee deferrals.

iv. Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.

v. Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.

vi. Any amount not included in wages if all of the following apply:

a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;

b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;

c) For any taxable year the amount has not otherwise been added to wages pursuant to either Division (hh)(2) of this Section or Section 718.03 of the Ohio Revised Code, as that Section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

ii) "RELATED ENTITY"

(1) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

(3) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under Division (ii)(4) of this Section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(4) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in Divisions (ii)(1) to (3) of this Section have been met.

jj) "RELATED MEMBER" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this Division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in Section 1563(e) of the Internal Revenue Code.

kk) "RESIDENT" means an individual who is domiciled in the Municipality as determined under Section 164.20 of this Chapter.

ll) "S CORPORATION" means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year

mm) "SCHEDULE C" means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

nn) "SCHEDULE E" means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

oo) "SCHEDULE F" means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

pp) "SINGLE MEMBER LIMITED LIABILITY COMPANY" means a limited liability company that has one direct member.

qq) "SMALL EMPLOYER" means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this Division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

rr) "TAX ADMINISTRATOR" means the individual charged with direct responsibility for administration of the income tax levied by the City in accordance with this Chapter

ss) "TAX RETURN PREPARER" means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

tt) "TAXABLE YEAR" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

uu) "TAXPAYER" means a person subject to a tax levied on income by a municipal corporation in accordance with this Chapter. "Taxpayer" does not include a grantor trust or, except as provided in Division (uu)(1) of this Section, a disregarded entity.

(1) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

i. The limited liability company's single member is also a limited liability company.

ii. The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.

iii. Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under Division (L) of Section 718.01 of the Ohio Revised Code as this Section existed on December 31, 2004.

iv. The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

v. The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.

(2) For purposes of Division (uu)(1)(v) of this Section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and the tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

vv) "TAXPAYERS' RIGHTS AND RESPONSIBILITIES" means the rights provided to taxpayers in Sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code, ordinances, and rules and regulations adopted by the municipality for the imposition and administration of a municipal income tax.

164.06 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

a) "Municipal Taxable Income" for a resident of the municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in Section 164.05(s)(2) of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

i. "Income" is defined in 164.05(m) of this Chapter.

1. "Qualifying Wages" is defined in Section 164.05(hh) of this Chapter.

2. "Net profit" is included in "income", and is defined in Section 164.05(v) of this Chapter. The net operating loss carryforward shall be calculated and deducted in the same manner as provided in Section 164.05(a)(8) of this Chapter. Treatment of

net profits received by an individual taxpayer from rental real estate is provided in Section 164.08(e) of this Chapter.

3. Section 164.05(m) provides the following: offsetting and net operating loss carryforward treatment in (m)(1)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (m)(1)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (m)(1)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (m)(1)(iv).

4. "Pass Through Entity" is defined in Section 164.05(aa).

ii. "Exempt Income" is defined in Section 164.05(j) of this Chapter.

iii. Allowable employee business expense deduction is described in Section 164.05(s)(2) of this Chapter, and is subject to the limitations provided in that Section.

iv. "Pre-2017 Net Operating Loss Carryforward" is defined in Section 164.05(ff) of this Chapter.

b) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 164.08 of this Chapter, reduced by allowable employee business expense deduction as found in 164.05(s)(2) of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

i. "Income" is defined in 164.05(m) of this Chapter.

1. "Qualifying Wages" is defined in Section 164.05(hh) of this Chapter.

2. "Net profit" is included in "income", and is defined in Section 164.05(v) of this Chapter. This Section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in Section 164.05(a)(8). "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only a pass through entity owned directly or indirectly by the nonresident.

3. "Pass through Entity" is defined in Section 164.05(aa).

ii. "Exempt Income" is defined in Section 164.05(j) of this Chapter.

iii. "Apportioned or sitused to the Municipality as provided in Section 164.08 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 164.08(e) of this Chapter.

iv. "Allowable employee business expense deduction" as described Section 164.05(s)(2) of this Chapter, is subject to the limitations provided in that Section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

v. "Pre-2017 Net Operating Loss Carryforward" is defined in Section 164.05 (ff) of this Chapter.

164.07 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

a) "Municipal Taxable Income" for a taxpayer who is not an individual is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

i. "Net Profit" for a person other than an individual is defined in Section 164.05(v) of this Chapter.

ii. "Adjusted Federal Taxable Income" is defined in Section 164.05(a) of this Chapter.

(2) "Exempt Income" is defined in Section 164.05(j) of this Chapter.

(3) "Apportionment" means the apportionment as determined by Section 164.08 of this Chapter.

(4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 164.05 (ff) of this Chapter.

164.08 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This Section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. For purposes of this Section, the municipality is defined in Section 164.05(t) and the net profit calculated herein shall apply as set forth in Section 164.06 and 164.07 of this Chapter.

a) Net profit from a business or profession conducted both within and outside of the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding sentence, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 164.11 of this Chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

b) (1) If the apportionment factors described in Division (a) of this Section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

i. Separate accounting;

ii. The exclusion of one or more of the factors;

iii. The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

iv. A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the

request in an assessment issued within the period prescribed by Section 164.33 of this Chapter.

(3) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in Division (b)(1) of this Section only by issuing an assessment to the taxpayer within the period prescribed by Section 164.33 of this Chapter.

(4) Nothing in Division (b) of this Section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

c) As used in Division (a)(2) of this Section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

i. The employer;

ii. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

iii. A vendor, customer, client, or patient of a person described in Division (c)(1)(ii) of this Section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in Division (c)(1) or (2) of this Section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

d) For the purposes of Division (a)(3) of this Section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this Division, a sale of property originates in a municipal corporation if,

regardless of where title passes, the property meets any of the following criteria:

i. The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

ii. The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

iii. The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be sitused to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be sitused to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be sitused to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

e) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides. A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this Division to the municipal corporation in which the property is located. For purposes of the application of any net operating loss realized from the rental of real estate, said loss is to be applied using separate accounting as it relates to those properties within a given municipal taxing jurisdiction. Common or shared expenses relating to rental real estate shall be allocated equally among all rental properties.

f) (1) Except as provided in Division (f)(2) of this Section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real

estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under 164.14 of this Chapter.

g) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. The taxpayer will not be required to add to its net profit that was apportioned to that Municipal Corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation. This Division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this Section.

h) When calculating the ratios described in Division (a) or Division (b) of this Section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

164.09 CONSOLIDATED FEDERAL INCOME TAX RETURN.

a) As used in this Section:

(1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under Division (a)(1) of this Section.

(4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the Ohio Revised Code.

(5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the Ohio Revised Code.

b) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

i. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.

ii. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under Division (b)(2) of this Section; or

iii. A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this Section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under Division (b)(1) of this Section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under Division (b)(1) or (2) of this Section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

c) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year must file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

1368 d) A taxpayer is required to prepare a consolidated municipal income tax return in
1369 the same manner as is required under the United States Department of Treasury
1370 regulations that prescribe procedures for the preparation of the consolidated
1371 federal income tax return required to be filed by the common parent of the
1372 affiliated group of which the taxpayer is a member.
1373
1374 e) (1) Except as otherwise provided in Divisions (e)(2), (3), and (4) of this Section,
1375 corporations that file a consolidated municipal income tax return shall
1376 compute adjusted federal taxable income, as defined in Section 165.05(a)
1377 of this Chapter, by substituting "consolidated federal taxable income" for
1378 "federal taxable income" wherever "federal taxable income" appears in that
1379 Division and by substituting "an affiliated group of corporation's" for "a C
1380 corporation's" wherever "a C corporation's" appears in that Division.
1381
1382 (2) No corporation filing a consolidated municipal income tax return shall
1383 make any adjustment otherwise required under Division 164.05(a) of this
1384 Chapter to the extent that the item of income or deduction otherwise
1385 subject to the adjustment has been eliminated or consolidated in the
1386 computation of consolidated federal taxable income.
1387
1388 (3) If the net profit or loss of a pass-through entity having at least eighty per
1389 cent of the value of its ownership interest owned or controlled, directly or
1390 indirectly, by an affiliated group of corporations is included in that affiliated
1391 group's consolidated federal taxable income for a taxable year, the
1392 corporation filing a consolidated municipal income tax return shall do one
1393 of the following with respect to that pass-through entity's net profit or loss
1394 for that taxable year:
1395
1396 i. Exclude the pass-through entity's net profit or loss from the
1397 consolidated federal taxable income of the affiliated group and, for
1398 the purpose of making the computations required in Section 164.08
1399 of this Chapter, exclude the property, payroll, and gross receipts of
1400 the pass-through entity in the computation of the affiliated group's
1401 net profit sitused to a municipal corporation. If the entity's net profit
1402 or loss is so excluded, the entity shall be subject to taxation as a
1403 separate taxpayer on the basis of the entity's net profits that would
1404 otherwise be included in the consolidated federal taxable income of
1405 the affiliated group.
1406
1407 ii. Include the pass-through entity's net profit or loss in the
1408 consolidated federal taxable income of the affiliated group and, for
1409 the purpose of making the computations required in Section 164.08
1410 of this Chapter, include the property, payroll, and gross receipts of
1411 the pass-through entity in the computation of the affiliated group's
1412 net profit sitused to a municipal corporation. If the entity's net profit
1413 or loss is so included, the entity shall not be subject to taxation as
1414 a separate taxpayer on the basis of the entity's net profits that are
1415 included in the consolidated federal taxable income of the affiliated
1416 group. The entity shall be subject to taxation as a separate taxpayer
1417 on that portion of the entity's net profit or loss not included in the

consolidated federal taxable income of the affiliated groups and sitused to municipal corporation.

(4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

i. The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 164.08 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

ii. The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this Chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(5) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 164.08 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that Section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that Section.

(6) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the municipality in accordance with this Chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(7) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.

164.10 WITHHOLDING FROM QUALIFYING WAGES.

a) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 164.11 of this Chapter or Division (d) or (f) of this

Section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under Division (a)(1) of this Section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

b) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(1) Any employer, agent of an employer, or other payer not required to make payments under Division (b)(2) of this Section of taxes required to be deducted and withheld shall make quarterly payments to the Municipality not later than the fifteenth day of the month following the end of each calendar quarter.

(2) Taxes required to be deducted and withheld shall be remitted monthly to the Municipality if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under Division (b)(2) of this Section must be received by the Municipality not later than fifteen days after the last day of each month.

c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator.

d) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

e) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for

that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

f) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

g) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld. The taxes withheld shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Municipality.

h) On or before the last day of February of each year, every employer is required to file a Withholding Reconciliation Return with the Tax Administrator which must include:

(1) A list of the names, addresses, and social security numbers of all employees from whom qualifying wage tax was withheld or should have been withheld for the Municipality during the preceding calendar year.

(2) The amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year.

(3) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year.

(4) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

i) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this Section, shall be personally liable for a failure to file a report or pay the tax due as required by this Section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

j) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this Division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

k) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this Section.

164.11 OCCASIONAL ENTRANT.

a) The following terms as used in this Section:

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

(8) "Presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

i. The nature of the services are such that it will require more than twenty days of actual services to complete the services;

ii. The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer must allocate any of the employee's qualifying wages subject to Division (b)(1)(i) of this Section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this Division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this Section.

For the purposes of this Division, the location at which an employee spends a particular day shall be deemed in accordance with Division (b)(2) of this Section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that Division.

b) (1) Subject to Divisions (c), (e), (f), and (g) of this Section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

i. The employee's principal place of work is located in the Municipality.

ii. The employee performed services at one or more presumed worksite locations in the Municipality.

iii. The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 164.10 of this Chapter.

iv. The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.

(2) For the purposes of Division (b)(1) of this Section, an employee shall be considered to have spent a day performing services in a municipal

corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

i. Traveling to the location at which the employee will first perform services for the employer for the day;

ii. Traveling from a location at which the employee was performing services for the employer to any other location;

iii. Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;

iv. Transporting or delivering property described in Division (b)(2)(iii) of this Section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;

v. Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

c) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this Chapter, the exception from withholding requirements described in Division (b)(1) of this Section shall apply only if, with respect to the employee's qualifying wages described in that Division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

d) (1) Except as provided in Division (d)(2) of this Section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in Division (b)(1) of this Section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under Division (d)(1) of this Section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in Division (d)(2) of this Section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

e) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer must withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 164.05 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, the Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

f) Divisions (b)(1) and (d) of this Section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 164.10 of this Chapter.

164.12 DECLARATION OF ESTIMATED TAX.

a) As used in this Section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

b) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this Section:

i. Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

ii. An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this Division, "date of the postmark" means, in the event

there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

iii. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(2) Taxpayers filing a joint return are required to file a joint declaration of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under Section 164.13(g) of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this Section.

c) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

i. On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;

ii. On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;

iii. On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;

iv. On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (c)(1)(i) through (iv) of this Section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 164.13 of this Chapter.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest shall be imposed pursuant to Section 164.21 of this Chapter. However, if the underpayment is due to reasonable cause as described in Division (e) of this Section penalty and interest will not be imposed. The amount of the underpayment shall be determined as follows:

i. For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

ii. For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

iii. For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

iv. For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this Section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

e) An underpayment of any portion of tax liability determined under Division (d) of this Section shall be due to reasonable cause and the penalty imposed by this Section will not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 164.13 of this Chapter for that year.

(3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

f) The Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

164.13 RETURN AND PAYMENT OF TAX.

a) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 164.10(c) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, who turn eighteen years of age during a tax year or are older than eighteen, are required to file an annual municipal income tax return with the Municipality, regardless of income or liability.

b) If an individual is deceased, any return or notice required of that individual must be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

c) If an individual is unable to complete and file a return required by the Municipality in accordance with this Chapter, the return required of that individual must be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual must provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

d) Returns or notices required of an estate or a trust must be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

e) Spouses are permitted to file a joint return.

f) (1) Each return required to be filed under this Section must contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return must also include the taxpayer's social security number or taxpayer identification number. Each return must be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this Section, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this Section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this Section, copies of the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this Division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer must provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed

under Division (f) of this Section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

g) (1) Except as otherwise provided in this Chapter, each individual income tax return required to be filed under this Section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under Division 5747.08(G) of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality

(2) Except as otherwise provided in this Chapter, each annual net profit income tax return required to be filed under this Section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality

(3) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

h) (1) For taxable years beginning on or after January 1, 2016, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to Division (h)(1) of this Section must file with the Municipality an annual net profit return under Division (f)(3) and (4) of this Section.

i) This Division shall not apply to payments required to be made under Section 164.10(b) of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this Chapter is delivered after that period, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 164.10 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

k) Each return required by the Municipality to be filed in accordance with this Section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return. The return or instructions accompanying the return must also indicate that by checking the box the taxpayer authorizes the preparer or other person to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

l) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinance and the rules and regulations adopted by the Municipality, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter.

m) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

n) (1) As used in this Division, "worksite location" has the same meaning as in Section 164.11 of this Chapter.

(2) A person may notify the Tax Administrator that the person does not expect to be a taxpayer with respect to the municipality for a taxable year if both of the following conditions apply:

i. The person was required to file a tax return with the municipality for the immediately preceding taxable year because the person performed services at a worksite location within the municipality, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as

provided by this Chapter. The Tax Administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this Chapter.

ii. The person no longer provides services in the municipality, and does not expect to be subject to the municipality's income tax for the taxable year. The person is required to provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipality. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipality, make any sales in the municipality, or otherwise become subject to the tax levied by the municipality during the taxable year. If the affiant does become subject to the tax levied by the municipality for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipality, if such a registration is required by the municipality's ordinances or rules and regulations." The person shall sign the affidavit under penalty of perjury.

iii. If a person submits an affidavit described in Division (n)(2) of this Section, the Tax Administrator shall not require the person to file any tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this Chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the Tax Administrator for the taxable year. Nothing in Division (n) of this Section prohibits the Tax Administrator from performing an audit of the person.

164.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

a) Where a resident of the City of Cuyahoga Falls is subject to a municipal income tax in another municipal corporation or Joint Economic Development District, he or she shall not pay a total municipal income tax greater than the tax imposed at a higher rate.

b) Every individual taxpayer who resides in the City of Cuyahoga Falls, who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the City of Cuyahoga Falls, if it is made to appear that he or she has paid a municipal income tax on the same income taxable under this Section to another municipal corporation or Joint Economic Development District, shall be allowed credit against the tax imposed by this Section of the amount so paid or paid on their behalf to such

other municipality or Joint Economic Development District. The credit shall not exceed the tax assessed by this Section on such income earned in such other municipality, municipalities, or Joint Economic Development District or districts where such tax is paid.

164.15 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

a) As used in this Section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.

(2) i. Except as provided in Division (a)(2)(ii) of this Section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

ii. If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in Division (a)(2)(i) of this Section computed without regard to Division (a)(2)(ii) of this Section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

iii. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

b) (1) Except as provided in Division (d) of this Section, a refundable credit shall

be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this Section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this Section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

c) (1) For purposes of this Section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

d) The credit allowed under this Section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

164.16 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

a) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 164.19 of this Chapter.

b) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Section 164.19, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

c) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 164.19 of this Chapter.

164.17 EXTENSION OF TIME TO FILE.

a) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return will automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

b) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return will automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

c) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the Tax Administrator on or before the date the municipal income tax return is due, the Tax Administrator must grant the taxpayer's requested extension.

d) An extension of time to file under this Chapter is not an extension of time to pay any tax due.

e) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under Section 5747.08(G) of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

164.18 AMENDED RETURNS.

a) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to

determine the tax due levied by the Municipality in accordance with this Chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer who is otherwise permitted to do so under this Chapter or under Chapter 718 of the Ohio Revised Code intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return, following the provisions of Section 164.09 of this Chapter.

b) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under Division (b)(2) of this Section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 164.33 of this Chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

c) (1) In the case of an overpayment, a request for refund may be filed under this Division within the period prescribed by Section 164.19(b)(1) for filing the amended return even if it is filed beyond the period prescribed in that Division if it otherwise conforms to the requirements of that Division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in Division (c)(2) of this Section, a request filed under this Division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 164.19 of this Chapter. Except as set forth in Division (c)(2) of this Section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

164.19 REFUNDS.

a) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this Section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

b) (1) Except as otherwise provided in this Chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the Finance Director for payment. Except as provided in Division (b)(3) of this Section, the Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If the Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 164.32 of this Chapter.

c) A request for a refund that is received after the last day for filing specified in Division (b) of this Section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal

meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

d) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 164.21(a)(4) of this Chapter.

e) As used in this Section, "withholding tax" has the same meaning as in Section 164.21 of this Chapter.

164.20 DOMICILE.

a) As used in this Section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return. Domicile differs from residency. Although a person may have multiple residences, a person can have only one domicile.

(2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in Division (a)(1) of this Section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

b) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(1) The individual's domicile in other taxable years;

(2) The location at which the individual is registered to vote;

(3) The address on the individual's driver's license;

(4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;

(5) The location and value of abodes owned or leased by the individual;

(6) Declarations, written or oral, made by the individual regarding the individual's residency;

(7) The primary location at which the individual is employed;

(8) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;

(9) The number of contact periods the individual has with the Municipality. For the purposes of this Division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this Section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

c) All applicable factors are provided in Section 718.012 of the Ohio Revised Code.

164.21 PENALTY, INTEREST, FEES, AND CHARGES.

a) As used in this Section:

(1) "Applicable law" means this Chapter, ordinances, codes, directives, instructions, and rules and regulations adopted by the Municipality provided such ordinances, codes, directives, instructions, and rules and regulations impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in Division (a) of this Section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five

per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with Division (a)(2) of this Section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with the Municipality by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

b) (1) This Section applies to the following:

i. Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

ii. Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016

(2) This Section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date will be subject to the ordinances and rules and regulations, as adopted from time to time before January 1, 2016.

c) The Municipality shall impose on a taxpayer, employer, agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this Section when the taxpayer, employer, agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in Division (a) of this Section", per annum, on all unpaid income tax,

unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for failure to timely file each return, or any fraction of month thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

d) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

e) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this Section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

f) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

164.22 AUDIT.

a) At or before the commencement of an audit, as defined in Section 164.05(c) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

b) Except in cases involving suspected criminal activity, the Tax Administrator is required to conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit because the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

c) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax

practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

d) A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This Division does not authorize the practice of law by a person who is not an attorney.

e) The taxpayer or the person conducting the audit may record, electronically or otherwise, the audit examination.

164.23 RIGHT TO EXAMINE.

a) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this Section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

b) The records and other documents of any taxpayer, employer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and must be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

c) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This Division does not authorize the practice of law by a person who is not an attorney.

d) No person shall fail to comply with written notice issued by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns.

164.24 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this Chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

164.25 ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

a) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this Division of this Section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under this Chapter.

b) Appoint agents and prescribe their powers and duties;

c) Confer and meet with officers of other municipal corporations, states, and officers of the United States on any matters pertaining to their respective official duties as provided by law;

d) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Chapter;

e) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

f) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 164.08 of this Chapter;

g) The Tax Administrator is by law authorized and required to make all tax findings, determinations, computations and assessments. The Tax Administrator pursuant to time limitations provided by law, on the Tax Administrator's own motion may review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made. The Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

h) Destroy any or all returns or other tax documents in the manner authorized by law;

i) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 164.10 of this Chapter.

164.25 COMPROMISE OF CLAIM AND INSTALLMENT PAYMENT PLAN.

a) As used in this Section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this Chapter.

b) The Tax Administrator may do either of the following if such action is in the best interest of the Municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions the Tax Administrator requires.

c) The Tax Administrator's rejection of a compromise or installment payment plan agreement proposed by a person with respect to a claim is not appealable.

d) A compromise or installment payment plan agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

e) (1) A compromise or installment payment plan agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator has the sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or installment payment plan agreement.

f) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not an installment payment plan agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of an installment payment plan agreement.

164.27 REQUIRING IDENTIFYING INFORMATION.

a) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

b) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 164.21 of this Chapter, in addition to any applicable penalty described in Section 164.37 of this Chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under Division (a) of this Section within thirty days after filing the next tax document requiring such identifying information, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 164.21 of this Chapter.

(3) The penalties provided for under Divisions (b)(1) and (2) of this Section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 164.37 of this Chapter for a violation of 164.29 of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

164.28 CONFIDENTIALITY.

a) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter is confidential. No person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality. The Tax Administrator of the

Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this Chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

b) This Section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

c) Whoever violates this Section by improperly disclosing confidential information is guilty of a misdemeanor of the first degree. In addition, any employee of the City of Cuyahoga Falls who violates the provisions of this Section relating to the disclosure of confidential information is subject to dismissal.

164.29 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal ordinance or state law to be filed with the Tax Administrator. No person shall knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.

164.30 OPINION OF THE TAX ADMINISTRATOR.

a) An "opinion of the Tax Administrator" means an opinion issued under this Section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

b) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with Divisions (c), (g), and (h) of this Section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts

(2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

c) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant Section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

(6) The effective date of the expiration of the opinion, if specified in the opinion.

d) (1) The taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Section 164.29 of this Chapter.

e) If the Tax Administrator provides written advice under this Section, the opinion must include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in Division (c) of this Section;

(2) It is the duty of the taxpayer to be aware of such changes.

f) The Tax Administrator may refuse to offer an opinion on any request received under this Section.

g) This Section binds the Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

h) An opinion issued by the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared. The opinion does not bind the Tax Administrator of any other municipal corporation.

i) The Tax Administrator shall make available the text of all opinions issued under this Section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

j) An opinion of the Tax Administrator issued under this Section or a refusal to offer an opinion under Division (f) of this Section may not be appealed.

164.31 ASSESSMENT.

a) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the Ohio Revised Code.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this Section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.

b) (1) A person may challenge the presumption of delivery and service as set forth in this Division. A person disputing the presumption of delivery and service under this Section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this Section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the

person's agent or the person's affiliate was conducting business at the address. For the purposes of this Section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in Division (b)(1) of this Section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either. Nothing in this Division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

164.32 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

a) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Chapter 718 of the Ohio Revised Code.

(2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review must be domiciled in the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the Mayor of Cuyahoga Falls. This member may be an employee of the Municipality, but may not be the Director of Finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the Mayor shall serve at the discretion of the Mayor.

(4) Members of the Local Board of Tax Review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Ohio Revised Code.

(5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this Section shall resign immediately by operation of law.

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration

of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

b) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing of the taxpayer's right to appeal the assessment. The notification must include the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

c) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

d) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under Division (c) of this Section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

e) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in Section 5717.011 of the Ohio Revised Code.

f) The Local Board of Tax Review created pursuant to this Section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a

record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this Section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

164.33 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

a) (1) i. Civil actions to recover municipal income taxes, penalties, and interest on municipal income taxes shall be brought within the latter of:

a) Three years after the tax was due or the return was filed, whichever is later; or

b) One year after the conclusion of the qualifying deferral period, if any.

ii. The time limit described in Division (a)(1)(i) of this Section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in Division (c) of this Section.

(2) As used in this Section, "qualifying deferral period" means a period of time beginning and ending as follows:

i. Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 164.31 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

ii. Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further

appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

b) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

c) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 164.19 of this Chapter.

d) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal, an error in the assessment is corrected by the Tax Administrator, the Local Board of Tax Review, the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio Board of Tax Appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 164.19 of this Chapter, with interest on that amount as provided by Division (d) of this Section.

e) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

164.34 ADOPTION OF RULES AND REGULATIONS.

a) Pursuant to Section 718.30 of the Ohio Revised Code, the Municipality pursuant to this Chapter, grants authority to the Tax Administrator to adopt rules and regulations to administer the income tax imposed by the Municipality, subject to the approval of the Board of Review, to adopt, promulgate, and enforce rules and regulations relating to the collection of taxes and the administration and enforcement of the provisions of this Chapter.

b) All rules and regulations adopted under this Section shall be published and posted on the internet.

164.35 COLLECTION AFTER TERMINATION OF CHAPTER.

a) This Chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this Chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this Chapter have been fully terminated, subject to the limitations contained in Section 164.33.

b) Annual returns due for all or any part of the last effective year of this Chapter shall be due on the date provided in Section 164.13 as though the same were continuing.

164.36 SAVINGS CLAUSE.

If any sentence, clause, Section or part of this Chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income 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 so found and shall not affect or impair any of the remaining provisions, sentences, clauses, Sections or other parts of this Chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, Section or part thereof not been included in this Chapter.

164.37 VIOLATIONS; PENALTY.

a) Except as provided in Division (b) of this Section, whoever violates Section 164.28 of this Chapter, Section 164.29 of this Chapter, or Section 164.10 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

b) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

c) Each instance of access or disclosure in violation of Section 164.29 of this Chapter constitutes a separate offense.

d) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter include but are not limited to the following acts, conduct, and/or omissions.

(1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or

(2) Knowingly make any incomplete return; or

(3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or

(4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 164.10; or

(5) Neglect or refuse to withhold or remit municipal income tax from employees; or

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

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

(8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

(9) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 164.05, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

164.38 REPORTING TENANT RESIDENCY.

The Tax Administrator may require any owner of rented or leased residential or commercial premises to file with the Division of Taxation of the City a report showing the name and address of each tenant who occupies the residential or commercial premises in the City. This report shall be on a form furnished by the Division of Taxation and may not be required more than once in any six month period.

164.39 TAX REGULATION FOR THE BUILDING TRADES.

a) "Building trades" means the engagement in the improvement of real property for monetary consideration and encompasses, but is not limited to, the following crafts, trades or businesses, site construction, demolition, earthwork, utilities, paving, plumbing, electrical, masonry, carpentry, general construction, metal fabrication, erection, waterproofing, insulation, roofing, siding, glazing, lathing, plastering, drywalling, tile setting, flooring, painting, decorating, sign building and erecting, and landscaping.

b) All persons, partnerships, corporations, or other business entities engaged in a building trade and doing business within the City shall register with the Tax Department and file all required tax forms.

c) Registration shall consist of the identification of the business's name, primary office address, telephone number, tax identification number, name of the general manager or managers, and the name address and telephone number of any designated statutory agent for the acceptance of process and any other such information designated by the Tax Administrator. Registration shall be made upon forms provided by the Tax Administrator. Registration shall be updated upon the change of any provided information or upon the request of the Tax Administrator.

d) The Tax Department shall issue a Certificate of Compliance to all businesses who are registered as provided herein and whose tax returns are current; including, but not limited to reports of both employee and nonemployee compensation. The Tax Administrator may cancel a Certificate of Compliance if any of the following occur; the business registration contains any false information or fails to disclose any required information; the person, partnership,

corporation or other business entity fails to make any required return or payment thereon; or the person, partnership, corporation or other business entity otherwise violates this chapter.

e) Prior to obtaining a permit to perform work in the City, every person, partnership, corporation or other business entity engaged in a building trade shall provide the permitting authority with a valid Certificate of Compliance issued by the Tax Department and shall complete a form as specified by the Tax Department to provide the location of the job and identify any sub- contractors used thereon.

f) All payments to sub-contractors must be reported on Federal Tax Form 1099 or an acceptable substitute and must include the amount of compensation paid to the sub-contractor. Failure to furnish such a report shall result in the disallowance of all sub-contractor expenses, which shall be taxable to the Contractor.

g) The owner or occupant of a residence shall not be required to possess a Certificate of Compliance for any work they may legally perform on their own residence. If such a person is acting as their own general contractor and they are employing sub-contractors, each sub- contractor must have a Certificate of Compliance.

h) Except as otherwise provided herein, no person, partnership, corporation or other business entity shall:

(1) Perform work in a building trade unless they possess a valid Certificate of Compliance issued by the Tax Department;

(2) Knowingly make a false statement on a registration form;

(3) Fail to file any mandated form;

(4) Present a certificate of compliance to obtain any permit or other work approval from the City knowing that the certificate has been canceled.

(5) Otherwise fail to comply with the obligations of this section.

i) Any person, partnership, corporation, or other business entity that violates any provision of this section is guilty of a misdemeanor of the first degree. Each day that the violation is committed or permitted to continue shall constitute a separate violation.

Section 3. Any ordinances or resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all requirements including Chapter 107 of the Codified Ordinances.

Section 5. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: 11/23/2015

President of Council

Clerk of Council

Approved 11-25-2015

Mayor

11/9/15
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