

**CHAPTER 161**  
**Income Tax**

- 161.01 Purpose.**
- 161.02 Definitions.**
- 161.03 Imposition of tax.**
- 161.04 Effective period.**
- 161.05 Return and payment of tax.**
- 161.06 Collection at source.**
- 161.061 Agreements with other municipal corporations.**
- 161.07 Declarations.**
- 161.08 Duties of Tax Administrator.**
- 161.09 Investigative powers of Tax Administrator; penalty for divulging confidential information.**
- 161.10 Interest and penalties.**
- 161.11 Collection of unpaid taxes and refunds of overpayments.**
- 161.12 Violations; penalty.**
- 161.13 Board of Review.**
- 161.14 Allocation of funds.**
- 161.15 Credit for tax paid to another municipality.**
- 161.16 Saving clause.**
- 161.17 Collection of tax after termination of chapter.**
- 161.18 Reporting tenant residency.**
- 161.19 Tax regulations for the building trades.**

**CROSS REFERENCES**

- Power to levy income tax - see Ohio Const., Art. XIII, Sec. 3
- Limitation on rate of taxation - see CHTR. Art. VI, Sec. 14
- Submission of extra levy to vote - see CHTR. Art. VI, Sec. 16
- Payroll deductions - see Ohio R. C. 9. 42
- Municipal income taxes - see Ohio R.C. Ch. 718
- Capital Improvement Fund - see ADM. 123.01
- Division of Taxation - see ADM. 123.02

**161.01 PURPOSE.**

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Cuyahoga Falls, there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.  
(Ord. 113-1966. Passed 10-24-66. )

**161.02 DEFINITIONS.**

As used in this chapter, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

- (a) "Assignment" (EDITOR'S NOTE: The provisions of Section 161.02(a), "Assignment" were repealed by Ordinance 212, passed August 23, 1971. )
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 161.13 of this chapter.
- (d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.
- (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Gross receipts" means the total income from any source whatsoever.
- (j) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this chapter.
- (k) "Nonresident" means an individual domiciled outside the City of Cuyahoga Falls.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Cuyahoga Falls.
- (m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

- (Ord. 113-1966. Passed 10-24-66. )
- (o) "Reciprocity credit" (EDITOR'S NOTE: The provisions of Section 161.02(o), "Reciprocity credit" were repealed by Ordinance 212, passed August 23, 1971. )
  - (p) "Resident" means an individual domiciled in the City of Cuyahoga Falls.
  - (q) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Cuyahoga Falls.
  - (r) "Tax Administrator" means the Administrator of the Division of Taxation in the Department of Finance of the City of Cuyahoga Falls or the person executing the duties of such Administrator.  
(Ord. 113-1966. Passed 10-24-66.)
  - (s) "Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deductions, gross winnings from lottery and other gambling activities, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. (Ord. 36-2004. Passed 2-9-04.)
  - (t) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.  
(Ord. 113-1966. Passed 10-24-66.)
  - (u) "Taxing municipality" (EDITOR'S NOTE: The provisions of Section 161.02(u), "Taxing municipality" were repealed by Ordinance 212-1971, passed August 23, 1971.)
  - (v) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.  
(Ord. 113-1966. Passed 10-24-66.)
  - (w) "Joint Economic Development District" means districts created under Ohio R.C. 715.70 and 715.71 as amended from time to time.  
(Ord. 171-94. Passed 12-28-94.)

### **161.03 IMPOSITION OF TAX.**

(a) Rate and Income Taxable. Subject to the provisions of Section 161.16 an annual tax for the purposes specified in Sections 161.01 and 161.14 hereof shall be and is hereby imposed commencing on July 1, 1996, and continuing thereafter at the rate of two percent (2%) per annum upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the City.
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the City.
- (3) A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all resident

unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

- B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.
- (4) A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.
  - B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity attributable to the City and not levied against such unincorporated business entity.
- (5) On the portion attributable to the City of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.  
(Ord. 69-1966. Passed 5-13-96.)
  - (6) On gross winnings from lottery and other gambling activities.  
(Ord. 36-2004. Passed 2-9-04.)

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

(c) Operating Loss Carry-Forward.

- (1) The portion of net operating loss sustained in any taxable year subsequent to April 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding years allocable to the City, until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to the City

in the same manner as provided herein for allocating net profits to the City.

- (3) The Tax Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Administrator.
- (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership or interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

(e) Exemptions. The tax provided for herein shall not be levied upon:

- (1) The military pay or allowances of members of the armed forces of the United States.
- (2) Income of religious, charitable, fraternal, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (3) Pensions, income from intangibles (interest and dividends from stocks and bonds), insurance proceeds, annuities, government allotments, social security benefits, compensation for personal injury or property damage, workmen's compensation or reimbursement for expenses.
- (4) A corporation whose income is taxed by the State or income that is presently taxed by the State (that is, income earned by public utilities).
- (5) Income of residents under eighteen years of age.
- (6) Income of residents of the City age sixty-five or over to the amount of the first three thousand dollars (\$3,000) of income.
- (7) Scholarships, fellowships, gifts, and inheritances.  
(Ord. 69-1996. Passed 5-13-96.)

**161.04 EFFECTIVE PERIOD.**

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.  
(Ord. 113-1966. Passed 10-24-66.)

**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.
- (Ord. 69-2011. Passed 7-25-11.)

**161.06 COLLECTION AT SOURCE.**

- (a) (1) Each employer within or doing business within the City who employs one or more persons on a salary, wage, commission or other compensation basis shall at the time of payment thereof deduct the tax at its then applicable percentage from the gross salaries, wages, commissions or other compensation earned by all employees.
- (Ord. 151-1990. Passed 9-24-90.)
- (2) Each such employer shall, on or before the twentieth day of the month following each calendar month, make a return and remit to the City the tax hereby required to be withheld. Such return shall be on form or forms prescribed by or acceptable to the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld. The Administrator may grant approval for quarterly filings and payment, which shall be made on or before the last day of the month following the end of the quarter, when it is to the best interest of the City to do so.
- (Ord. 101-93. Passed 9-28-93.)
- (3) On or before January 31 following any calendar year, such employer shall file with the Tax Administrator an information return for each employee

from whom the City Income tax has been or should have been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of the City income tax withheld from such employee.

(Ord. 151-1990. Passed 9-24-90.)

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

(Ord. 26-1970. Approved by voters May 5, 1970; Ord. 114-1974. Passed 5-13-74.)

#### **161.061 AGREEMENTS WITH OTHER MUNICIPAL CORPORATIONS.**

The Director of Finance shall have the authority to enter into an equitable agreement with municipal corporations for the distribution of the tax imposed on the salaries, wages, commissions or other compensation earned by residents or nonresidents of the City employed within and beyond the corporate limits of the City.

(Ord. 115-1987. Passed 6-8-87.)

#### **161.07 DECLARATION.**

(a) Every person who anticipates any taxable income which is not subject to Section 161.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 161.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City in accordance with Section 161.06, such person need not file a declaration.

- (b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or not later than the 15th day of the fourth month after the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration not later than the 15th day of the fourth month after the beginning of each fiscal year or period.
- (c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Administrator. Credit shall be taken for the City income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities or Joint Economic Development Districts in accordance with the provisions of Section 161.15.
- (2) The original declaration (or subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment



date as provided for herein.

(d) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Tax Administrator at least one-fourth of the estimated annual tax due after deducting:

- (1) Any portion of such tax to be deducted or withheld at the source pursuant to Section 161.06: and
- (2) Any credits allowable under the provisions of Section 161.15.

At least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth month after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(e) On or before the 15th day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 161.05 hereof.

(Ord. 69-2011. Passed 7-25-11.)

#### **161.08 DUTIES OF TAX ADMINISTRATOR.**

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

(b) The Tax Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

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

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 161.11 and 161.12 of this chapter shall apply.

- (c) In any case where a taxpayer has failed to file a return or has filed a return which

does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Tax Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 161.10 of this chapter.  
(Ord. 113-1966. Passed 10-24-66.)

**161.09 INVESTIGATIVE POWERS OF TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

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

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

(c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 161.12.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, and no person shall disclose such information except for official purposes or as provided in subsection (e) of this ordinance. This section does not prohibit the publication of statistics in a manner which does not disclose information with respect to individual taxpayers.

(e) The tax administrator may disclose confidential information as described in

subsection (d) hereof to the Internal Revenue Service, the State Tax Commissioner or his designee, or officer of a municipal corporation charged with the duty of enforcing a tax provided for by Ohio Revised Code Chapter 718, acting within the scope of the authority of the requesting agency, or in accordance with a proper judicial order.

(f) 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.

(g) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six years from the date his return is filed or the withholding taxes are paid. (Ord. 69-2011. Passed 7-25-11.)

#### **161.10 INTEREST AND PENALTIES.**

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half of one percent (1.5%) per month or fraction thereof.

(b) In case of taxpayers failing to file their returns when due, and who are not otherwise exempt from the filing requirement, the Tax Administrator may impose a civil penalty up to twenty-five dollars (\$25.00) for the first offense and up to one hundred dollars (\$100.00) for each subsequent offense in addition to any other penalties which may otherwise be imposed under Section 161.12.

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

- (1) For failure to pay taxes due, other than taxes withheld, one and one-half percent (1 ½ %) per month or fraction thereof, or fifteen percent (15%) annually whichever is greater.
- (2) For failure to remit taxes withheld from employees: five percent (5%) per month or fraction thereof, or fifteen percent (15%) annually whichever is greater.

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

(e) Upon recommendation of the Tax Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Administrator to

recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

(f) Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof shall, in addition to other penalties provided by law be liable to a penalty equal to the total amount of the tax evaded, or not withheld or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) A taxpayer shall have thirty (30) days after issuance to the taxpayer's last known address of notice of any proposed imposition of interest and penalties within which to file a written protest or explanation. If no protest or explanation is filed within the prescribed time, the interest and penalties shall become the final assessment.  
(Ord. 151-1990. Passed 9-24-90.)

#### **161.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

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

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

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.  
(Ord. 113-1966. Passed 10-24-66.)

#### **161.12 VIOLATIONS; PENALTY.**

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
- (5) Refuse to permit the Tax Administrator or any duly authorized agent or

- employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Tax Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
  - (7) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator authorized hereby; or
  - (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
  - (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or to knowingly give the Tax Administrator false information; or
  - (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter,

shall be guilty of a minor misdemeanor for the first offense and a misdemeanor of the first degree if the offender, within two years of the offense, has been convicted of or pleaded guilty to violating the provisions of this chapter.

(Ord. 99-2000. Passed 5-8-00.)

### **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.

(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.

(Ord. 69-2011. Passed 7-25-11.)

#### **161.14 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) Administration. Such part thereof as shall be necessary to defray all costs of collecting, enforcing and administering the tax levied by this chapter.
- (b) Other Purposes.
  - (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.

(Ord. 69-1996. Passed 5-13-96.)

#### **161.15 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 municipality 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 municipality 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.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide.  
(Ord. 171-1994. Passed 12-28-94.)

#### **161.16 SAVING CLAUSE.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.  
(Ord. 113-66. Passed 10-24-66.)

#### **161.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 161.11 and 161.12 hereof.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 161.05 and 161.06 as though the same were continuing.  
(Ord. 113-66. Passed 10-24-66.)

#### **161.18 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 she 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.  
(Ord. 101-1993. Passed 9-27-93.)

### **161.19 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.

(Ord. 142-1995. Passed 10-9-95.)

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