

ORDINANCE RECORD
COUNCIL OF THE CITY OF BRECKSVILLE

Ordinance No. 4890

**AN ORDINANCE AMENDING SECTION 1519.02
OF THE TAXATION CODE TO REDUCE THE
ALLOWABLE MUNICIPAL INCOME TAX
CREDIT FOR A LIMITED PERIOD OF TIME;
AND DECLARING AN EMERGENCY**

WHEREAS, the Mayor and Council have determined that, for a limited period of time, it is necessary to amend the allowable income tax credit to effectively fund the necessary functions of the City of Brecksville.

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

SECTION 1. Section 1519.02 of the Taxation Code be amended to read as follows:

1519.02 TAX CREDIT.

(a) Except in the years provided in paragraph (b) below, whenever the taxable income of a resident of the city is subject to a municipal income tax in another municipality on the same income taxable under this Title, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100% of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the city by the taxable income earned in or attributable to the municipality of employment or business activity but, in any event, such credit shall not be applied to a rate in excess of 2% of the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) For any tax year beginning on or after January 1, 2015, when the taxable income of a resident of the city is subject to a municipal income tax in another municipality on the same income taxable under this Title, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 87.50% of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the city by the taxable income earned in or attributable to the municipality of employment or business activity but, in any event, such credit shall not be applied to a rate in excess of 2% of the taxable income earned in or attributable to the municipality of employment or business activity. This Section 1519.02(b) shall cease to be effective as of the earlier of: 1) January 1, 2025; or 2) January 1 of the year immediately following the third consecutive calendar year in which the city collects more than \$18,000,000 in gross receipts from the tax imposed under this Title.

SECTION 2. That all other ordinances or resolutions inconsistent herewith be, and the same hereby is, repealed.

PART FIFTEEN - TAXATION CODE
Chapter

TITLE ONE - Municipal Income Tax

- 1501 Purpose
- 1503 Definitions
- 1505 Imposition of Income Tax
- 1507 Determination of Allocation of Tax
- 1509 Exemptions
- 1511 Returns
- 1513 Payment of Tax
- 1515 Interest and Penalties
- 1517 Collection of Unpaid Taxes and Refunds of Overpayments
- 1519 Tax Credit
- 1521 Disbursement of Receipts of Tax Collection
- 1523 Duties and Authority of the Administrator
- 1525 Board of Review
- 1527 Other Provisions
- 1529 Tax Administrator

1501.01 Purpose of levy of income tax

Cross-reference:

Power to levy income tax, see Charter Art. VI, Sec. 3

Statutory reference:

Municipal income taxes, see R.C. Ch. 718

Payroll deductions, see R.C. § 9.42

Power to levy income tax, see Ohio Constitution Art. XVIII, § 3

§ 1501.01 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purposes of general municipal functions of the city, there is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.

('64 Code, § 1501.01) (Ord. 1567, passed 12-20-66)

CHAPTER 1503: DEFINITIONS

Section

- 1503.01 Definitions
- 1503.02 Adjusted federal taxable income
- 1503.021 Administrator
- 1503.03 Association
- 1503.04 Board of Review
- 1503.05 Business
- 1503.06 Corporation
- 1503.07 Employee

1503.08	Employer; manager
1503.09	Fiscal year
1503.091	Fundamental change
1503.10	Generic form
1503.101	Gross receipts
1503.11	Net profits
1503.12	Nonresident
1503.13	Nonresident unincorporated business entity
1503.14	Person
1503.15	Place of business
1503.151	Qualifying wage
1503.16	Resident
1503.17	Resident unincorporated business entity
1503.18	Taxable income
1503.19	Taxable year
1503.20	Taxpayer

§ 1503.01 DEFINITIONS.

For the purposes of this title, the terms, phrases, words and their derivatives shall have the meanings given in this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

('64 Code, § 1503.01) (Ord. 1567, passed 12-20-66)

§ 1503.02 ADJUSTED FEDERAL TAXABLE INCOME.

ADJUSTED FEDERAL TAXABLE INCOME. A "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under R.C. § 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

(Ord. 4173, passed 5-3-05)

§ 1503.021 ADMINISTRATOR.

ADMINISTRATOR. The individual designated to administer and enforce the provisions of the city income tax.

('64 Code, §1503.02) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1503.03 ASSOCIATION.

ASSOCIATION. Any partnership, limited partnership or any other form of unincorporated enterprise, owned by two (2) or more persons.

('64 Code, §1503.03) (Ord. 1567, passed 12-20-66)

§ 1503.04 BOARD OF REVIEW.

BOARD OF REVIEW. The Board created by and constituted as provided in §1525.01.

('64 Code, §1503.04) (Ord. 1567, passed 12-20-66)

§ 1503.05 BUSINESS.

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

('64 Code, §1503.05) (Ord. 1567, passed 12-20-66)

§ 1503.06 CORPORATION.

CORPORATION. A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.

('64 Code, §1503.06) (Ord. 1567, passed 12-20-66)

§ 1503.07 EMPLOYEE.

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

('64 Code, §1503.07) (Ord. 1567, passed 12-20-66)

§ 1503.08 EMPLOYER; MANAGER.

EMPLOYER. An individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wages, commission or other basis of compensation.

MANAGER. Any of the employer's officers, responsible persons, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with this Title.

('64 Code, § 1503.08) (Ord. 2750, passed 12-4-84)

§ 1503.09 FISCAL YEAR.

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

('64 Code, § 1503.09) (Ord. 1567, passed 12-20-66)

§ 1503.091 FUNDAMENTAL CHANGE.

FUNDAMENTAL CHANGE. Any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.

('64 Code, § 1503.091) (Ord. 2750, passed 12-4-84)

§ 1503.10 GENERIC FORM.

GENERIC FORM. An electronic or paper form designated for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or requests for refunds, which contain all the information required on the city's regular tax return, estimated payment forms, and request for refund forms, and are in a similar format that will allow processing of generic forms without altering the city's procedures for processing forms.

(Ord. 4173, passed 5-3-05)

§ 1503.101 GROSS RECEIPTS.

GROSS RECEIPTS. The total income from any source whatever.

('64 Code, § 1503.10) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1503.11 NET PROFITS.

NET PROFITS. For taxable years prior to 2004, 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 Title, 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. For taxable years 2004 and later, see **ADJUSTED FEDERAL TAXABLE INCOME.**

('64 Code, § 1503.11) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)
§ 1503.12 **NONRESIDENT.**

NONRESIDENT. An individual domiciled outside the city.
('64 Code, § 1503.12) (Ord. 1567, passed 12-20-66)

§ 1503.13 **NONRESIDENT UNINCORPORATED BUSINESS ENTITY.**

NONRESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity not having an office or place of business within the city.

('64 Code, § 1503.13) (Ord. 1567, passed 12-20-66)

§ 1503.14 **PERSON.**

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

('64 Code, § 1503.14) (Ord. 1567, passed 12-20-66)

§ 1503.15 **PLACE OF BUSINESS.**

PLACE OF BUSINESS. Any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one (1) or more of his regular employees regularly in attendance.

('64 Code, § 1503.15) (Ord. 1567, passed 12-20-66)

§ 1503.151 **QUALIFYING WAGE.**

QUALIFYING WAGE. These are wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. Qualifying wage represents employees' income (including non-qualified deferred compensation and stock options) from which municipal tax shall be deducted by the employer, and any wages not considered a part of qualifying wage shall not be taxed by the city. This definition is effective January 1, 2004, for taxable years 2004 and later.

(Ord. 4173, passed 5-3-05)

§ 1503.16 **RESIDENT.**

RESIDENT. An individual domiciled in the city.

('64 Code, § 1503.16) (Ord. 1567, passed 12-20-66)

§ 1503.17 **RESIDENT UNINCORPORATED BUSINESS ENTITY.**

RESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity having an office or place of business within the city.

('64 Code, § 1503.17) (Ord. 1567, passed 12-20-66)

§ 1503.18 **TAXABLE INCOME.**

TAXABLE INCOME. Wages, salaries and other compensation paid by an employer or employers before any deduction 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 Title. TAXABLE INCOME shall also mean lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance in the amount of \$5,000 or more.

('64 Code, § 1503.18) (Ord. 1567, passed 12-20-66; Am. Ord. 3515, passed 7-16-96)
§ 1503.19 TAXABLE YEAR.

TAXABLE YEAR. The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this Title, 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.

('64 Code, § 1503.19) (Ord. 1567, passed 12-20-66)
§ 1503.20 TAXPAYER.

TAXPAYER. A person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

('64 Code, § 1503.20) (Ord. 1567, passed 12-20-66)

CHAPTER 1505: IMPOSITION OF INCOME TAX

Section

1505.01 Rate and income taxable

1505.02 Effective period

§ 1505.01 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in this section shall be imposed on and after January 1, 1990, at the rate of two percent (2%) per annum upon the following:

(a) On all salaries, wages, commissions and other compensation, including but not limited to lottery winnings, and income derived from gaming, wagering, lotteries or schemes of chance provided that such lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance are in the amount of \$5,000 or more, earned on and after January 1, 1990, by residents of the city.

(b) On all salaries, wages, commissions and other compensation, including but not limited to lottery winnings, and income derived from gaming, wagering, lotteries or schemes of chance provided that such lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance are in the amount of \$5,000 or more, earned on and after January 1, 1990, by nonresidents of the city for work done, lottery winnings received or income received from gaming, wagering, lotteries or schemes of chance provided that such lottery winnings and income derived from gaming, wagering, lotteries or schemes of chance are in the amount of \$5,000 or more, or services performed or rendered within the city.

(c) (1) On the portion attributable to the city on the net profits earned on and after January 1, 1990, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the city.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1990, of a resident unincorporated business entity not attributable to the city and not levied against such unincorporated business entity by the city.

(d) (1) On the portion attributable to the city of the net profits earned on or after January 1, 1990, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the city, whether or not such unincorporated business entity has an office or place of business in the city.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1990, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the city and not levied against such unincorporated business entity by the city.

(e) On the portion attributable to the city of the net profits earned on and after January 1, 1990, 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.

(f) On the portion attributable to the city pursuant to the terms of this chapter and including:

(1) Royalty income. Income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer.

Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds \$3,000, it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

(2) The employer's income derived from finance and carrying charges associated with their consumer's accounts receivable.
('64 Code, § 1505.01) (Ord. 3026, approved by voters 6-6-89; Am. Ord. 3515, passed 7-16-96; Am. Ord. 4173, passed 5-3-05)
§ 1505.02 EFFECTIVE PERIOD.

Such tax 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 on and after January 1, 1990.
('64 Code, § 1505.02) (Ord. 3026, approved by voters 6-6-89)

CHAPTER 1507: DETERMINATION OF ALLOCATION OF TAX
Section

- 1507.01 Method of determination
- 1507.02 Sales made in the city
- 1507.03 Total allocation
- 1507.04 Rentals
- 1507.05 Operating loss-carry forward

§ 1507.01 METHOD OF DETERMINATION.

This section does not apply to electric companies or combined companies, or to electric light companies for which an election made under R.C. §5745.031 is in effect.

(a) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the city, shall be determined as follows:

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

A. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the city during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession in the city during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, 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 (8).

B. Wages, salaries and other compensation paid during the taxable period to persons employed in the businesses or profession for services performed in the city to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the city under R.C. §718.011.

C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the city to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(2) If the foregoing allocation formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.

(3) If the Administrator approves the use of books and records as a substitute method, the following shall apply:

A. The net profits allocable to the city from business, professional or other activities conducted in the city by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the city.

B. If the books and records of the taxpayer are used as a basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the city are apportioned with reasonable accuracy.

C. In determining the income allocable to the city from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the city.

(R.C. § 718.02(A)) ('64 Code, § 1507.01) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1507.02 SALES MADE IN THE CITY.

As used in § 1507.01(a)(1)C., SALES MADE IN THE CITY mean:

(a) All sales of tangible personal property delivered within the city regardless of where title passes if shipped or delivered from a stock of goods within the city.

(b) All sales of tangible personal property delivered within the city regardless of where title passes even though transported from a point outside the city if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the city and the sales result from such solicitation or promotion.

(c) All sales of tangible personal property shipped from a place within the city to purchasers outside of the city regardless of where title passes if the taxpayer is not through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(R.C. § 718.02(B)) ('64 Code, § 1507.02) (Ord. 1567, passed 12-20-66)

§ 1507.03 TOTAL ALLOCATION.

(a) Add together percentages determined in accordance with § 1507.01(a)(1)A., B., and C. or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in § 1507.01.

(b) A factor is applicable even though it may be allocable entirely in or outside the city.

('64 Code, § 1507.03) (Ord. 1567, passed 12-20-66)

§ 1507.04 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under §§ 1505.01(c), (d) and (e), only if and to the

extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(b) Where the gross monthly rental of any and all real properties regardless of number and value, aggregates in excess of \$250 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$250 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds such \$250 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$250 per month.

(c) It shall be mandatory for every property owner subject to this section to personally or through a management agent submit a list to the Tax Administrator of names and addresses of all persons, firms, corporations or other entities occupying, leasing, renting or otherwise using the premises within this municipality in such a manner as to produce economic benefit to the property owner, whether or not such benefit is called "rent" and whether or not such benefit results in a profit or loss. The required list shall be prepared as of December 31 of each year and submitted on or before January 31 of the following year and at such other times as may be prescribed by the Tax Administrator. ('64 Code, § 1507.04) (Ord. 1999, passed 2-15-72)

§ 1507.05 OPERATING LOSS-CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967 allocable to the city may be applied against the portion of the profit of succeeding tax years allocable to the city, until exhausted but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the city in the same manner as provided herein for allocating net profits to the city.

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

('64 Code, § 1507.05) (Ord. 1567, passed 12-20-66)

CHAPTER 1509: EXEMPTIONS

Section

1509.01 Sources of income not taxed

§ 1509.01 SOURCES OF INCOME NOT TAXED.

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

(a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, state or federal governments or charitable, religious or educational organizations.

(c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.

(e) Alimony received.

(f) Personal earnings of any natural person under eighteen (18) years of age.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(h) Interest, dividends and other revenue from intangible property.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the city is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business.

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states of their political subdivisions to impose net income taxes on income derived from interstate commerce.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the city to impose net income taxes.

(l) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned, or licensed by a religious body constituting a

church or church denomination, and must have authority to perform all sacraments of the church.

('64 Code, § 1509.01) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

CHAPTER 1511: RETURNS

Section

- 1511.01 When return required to be made
- 1511.02 Form and content of return
- 1511.03 Extension of times for filing returns
- 1511.04 Consolidated returns
- 1511.05 Amended returns

§ 1511.01 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 15th of the year following the effective date of this Title and on or before April 15th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. Any person who has no income need not file an annual return. Any person who has exempt income shall file a return and declare to the Administrator the nature of his exemption. Any person who has income shall file a tax return with the Tax Administrator.

('64 Code, § 1511.01) (Ord. 2750, passed 12-4-84; Am. Ord. 4173, passed 5-3-05)

Penalty, see Ch. 1515

§ 1511.02 FORM AND CONTENT OF RETURN.

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

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax.

(b) The amount of the tax imposed by this Title on such earnings and profits, and

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

('64 Code, § 1511.02) (Ord. 1567, passed 12-20-66)

§ 1511.03 EXTENSION OF TIMES FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

('64 Code, § 1511.03) (Ord. 1567, passed 12-20-66)

§ 1511.04 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

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

(c) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the city. However, once the affiliated group has elected to file a consolidated return or a separate return with the city, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Administrator. ('64 Code, § 1511.04) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1511.05 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Chapters 1517 and 1519. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three (3) 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.

('64 Code, § 1511.05) (Ord. 1567, passed 12-20-66)

CHAPTER 1513: PAYMENT OF TAX

Section

1513.01	Payment of tax on filing of returns
1513.02	Collection at source
1513.03	Declaration of income
1513.04	Filing of declaration
1513.05	Form of declaration
1513.06	Payment to accompany declaration
1513.07	Annual return

1513.08 Extensions

§ 1513.01 PAYMENT OF TAX ON FILING OF RETURNS.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that:

(1) Where any portion of the tax so due has been deducted at the source pursuant to the provisions of § 1513.02, or

(2) Where any portion of such tax has been paid by the taxpayer pursuant to the provisions of § 1513.03, or

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in § 1519.02, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(b) A taxpayer who has overpaid the amount of tax to which the city is entitled under the provisions of this Title may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than \$1 shall be collected or refunded.

(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this Title. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager, shall be jointly and severally liable for the payment of such taxes, interest and penalty.

('64 Code, § 1513.01) (Ord. 1978, passed 12-7-71; Am. Ord. 2750, passed 12-4-84)

§ 1513.02 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the city shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of two percent (2%) (unless a different tax rate is imposed in §1505.01) per annum of the gross salaries, wages, commissions or other compensation due by the employer to such employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one (1) month is less than \$100, the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. 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.

(c) 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.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the city, but such employee shall be subject to all the requirements of this Title.

(e) Manager's obligation.

(1) Every manager is deemed to be a trustee of the city in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the city for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the city, whether or not the employer actually remits the tax to the city, for purposes of determining employee payments or credits.

(2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this Title.

(3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or managers' failure to remit funds held in trust, to file a tax return or to pay taxes.
('64 Code, § 1513.02) (Ord. 1978, passed 12-7-71; Am. Ord. 2750, passed 12-4-84; Am. Ord. 3026, approved by voters 6-6-89)
§ 1513.03 DECLARATION OF INCOME.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the city, less the tax credit allowed in § 1519.02, unless such taxpayer anticipates that such tax will be fully withheld within the city, and any income earned outside of the city will be fully taxed at the same or higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than \$75, no declaration or payment of estimated tax is required.

('64 Code, § 1513.03) (Ord. 2084, passed 11-20-73; Am. Ord. 3516, passed 7-16-96)

§ 1513.04 FILING OF DECLARATION.

(a) The declaration required by § 1513.03 shall be filed on or before April 15th of each year during the effective period set forth in § 1505.02 or within four (4) months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

('64 Code, § 1513.04) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1513.05 FORM OF DECLARATION.

(a) The declaration required by § 1513.03 shall be filed upon a form furnished by or obtainable from the Administrator. As provided in § 1513.03, credit shall be taken for the city tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of § 1519.02.

(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

('64 Code, § 1513.05) (Ord. 1978, passed 12-7-71)

§ 1513.06 PAYMENT TO ACCOMPANY DECLARATION.

(a) Effective January 1, 2003, the declaration of estimated tax to be paid the city by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of the declaration amount and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of the following year.

(b) Effective January 1, 2003, the declaration of estimated tax to be paid the city by corporations and associations shall be accompanied by a payment of at least one-fourth (1/4) of the declaration amount and at least a similar amount shall be paid on or before June 15th, September 15th, and December 15th. In the case of a fiscal year taxpayer, the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth and twelfth months of the taxable year, respectively.

('64 Code, § 1513.06) (Ord. 2084, passed 11-20-73; Am. Ord. 4173, passed 5-3-05)

§ 1513.07 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the city shall be paid therewith in accordance with the provisions of § 1513.01. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

('64 Code, § 1513.07) (Ord. 1978, passed 12-7-71)

§ 1513.08 EXTENSIONS.

The Administrator may extend the time of filing any return or of making any payment or time of performing any act required by this chapter for a period not to exceed

six (6) months beyond the original required date. The extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Administrator may deny the extension if the taxpayer's income tax account with the city is delinquent in any way.

('64 Code, § 1513.08) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

CHAPTER 1515: INTEREST AND PENALTIES

Section

1515.01	Interest on unpaid tax
1515.02	Penalties on unpaid tax
1515.03	Exceptions
1515.04	Abatement of interest and penalty
1515.05	Violations
1515.06	Limitation on prosecution
1515.07	Failure to procure forms not excuse

§ 1515.01 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of the Income Tax Ordinance of the city and remaining unpaid after they become due, shall bear interest at the rate of eight percent (8%) per annum.

('64 Code, § 1515.01) (Ord. 2479, passed 12-18-79)

§ 1515.02 PENALTIES ON UNPAID TAX.

In addition to interest as provided in § 1515.01, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent (10%) per annum, but not less than \$25 for the first offense, \$50 for the second offense occurring within five (5) years of the first offense and \$100 for the third or more offense occurring within five (5) years of the first offense.

(b) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than \$100.

('64 Code, § 1515.02) (Ord. 2479, passed 12-18-79; Am. Ord. 3516, passed 7-16-96)

§ 1515.03 EXCEPTIONS.

A penalty shall not be assessed on any additional tax assessment made by the Administrator against a taxpayer, when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after a final determination of the federal tax liability. No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve (12) month period, or if ninety percent (90%) of the actual liability has been received.

('64 Code, § 1515.03) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1515.04 ABATEMENT OF INTEREST AND PENALTY.

Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

('64 Code, § 1515.04) (Ord. 1567, passed 12-20-66)

§ 1515.05 VIOLATIONS.

(a) No person shall:

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

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

(3) Intentionally or willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Title; or

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

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

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

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

(8) Fail to comply with the provisions of this Title or any order or subpoena of the Administrator authorized hereby; or

(9) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof; or

(10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and city tax withheld, or to knowingly give the 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 Title.

(b) Whoever violates this section is guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned not more than six (6) months or both, for each offense. ('64 Code, § 1515.05) (Ord. 1567, passed 12-20-66; Am. Ord. 2750, passed 12-4-84)
§ 1515.06 LIMITATION ON PROSECUTION.

(a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(b) Prosecutions for an offense made punishable under a municipal ordinance imposing an income tax shall be commenced within three (3) 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 percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

(R.C. § 718.06(A), (B)) ('64 Code, § 1515.06) (Ord. 1567, passed 12-20-66)
§ 1515.07 FAILURE TO PROCURE FORMS NOT EXCUSE.

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

('64 Code, § 1515.07) (Ord. 1567, passed 12-20-66)

CHAPTER 1517: COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

Section

1517.01 Unpaid taxes recoverable as other debts

1517.02 Refunds of taxes erroneously paid

1517.03 Amounts of less than one dollar

§ 1517.01 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

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

('64 Code, § 1517.01) (Ord. 1567, passed 12-20-66)

§ 1517.02 REFUNDS OF TAXES ERRONEOUSLY PAID.

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

('64 Code, § 1517.02) (Ord. 1567, passed 12-20-66)

§ 1517.03 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than \$1 shall not be collected or refunded.

('64 Code, § 1517.03) (Ord. 1567, passed 12-20-66)

CHAPTER 1519: TAX CREDIT

Section

1519.01 [Reserved]

1519.02 Tax credit

§ 1519.01 [RESERVED].

§ 1519.02 TAX CREDIT.

When the taxable income of a resident of the city is subject to a municipal income tax in another municipality on the same income taxable under this Title, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100% of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the city by the taxable income earned in or attributable to the municipality of employment or business activity but, in any event, such credit shall not be applied to a rate in excess of 2% of the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

('64 Code, § 1519.02) (Ord. 3026, approved by voters 6-6-89)

CHAPTER 1521: DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

Section

1521.01 Disbursement of funds collected

§ 1521.01 DISBURSEMENT OF FUNDS COLLECTED.

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

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this Title shall be paid.

(b) The balance remaining after payment of the expenses referred to in division (a) hereof shall be deposited in the General Fund for municipal purposes.

('64 Code, § 1521.01) (Ord. 1567, passed 12-20-66)

CHAPTER 1523: DUTIES AND AUTHORITY OF THE ADMINISTRATOR

Section

1523.01 Duty to receive tax imposed

1523.02 Duty to enforce collection

1523.03 Authority to make and enforce regulations; adoption of rules and regulations of the Regional Income Tax Agency

1523.04 Authority to arrange installment payments

1523.05 Authority to determine amount of tax due

1523.06 Authority to make investigations

1523.07 Authority to compel productions of records

1523.08 Refusal to produce records

- 1523.09 Confidential nature of information obtained
- 1523.10 Taxpayer required to retain records
- 1523.11 Authority to contract for central collection facilities
- 1523.12 Authority to enter agreement with other municipal corporation

§ 1523.01 DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this Title in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received.

('64 Code, § 1523.01) (Ord. 1567, passed 12-20-66)

§ 1523.02 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the city; to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld; and to show the dates and amounts of payments thereof.

('64 Code, § 1523.02) (Ord. 1567, passed 12-20-66)

§ 1523.03 AUTHORITY TO MAKE AND ENFORCE REGULATIONS; ADOPTION OF RULES AND REGULATIONS OF THE REGIONAL INCOME TAX AGENCY.

(a) The city hereby adopts the rules and regulations promulgated by the Regional Income Tax Agency and any subsequent amendments made thereto. In the event a rule or regulation of the Regional Income Tax Agency conflicts with any provision or provisions contained in this chapter, the provision or provisions contained in this chapter shall prevail.

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

('64 Code, § 1523.03) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1523.04 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

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

(b) 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 §§ 1517.01 and 1515.05 of this Title shall apply.

('64 Code, § 1523.04) (Ord. 1567, passed 12-20-66)

§ 1523.05 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

(a) Preparation of return by Administrator. If any taxpayer fails to file a tax return which is required by this Title within the time prescribed therefore but consents to disclose all information necessary to the preparation thereof, then the Administrator may

prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.

(b) Execution of return by Administrator. If any taxpayer fails to file a tax return which is required by this Title within the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he can obtain throughout testimony or otherwise.

(c) Assessment of a taxpayer by Administrator. The Administrator may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by this Title and which is due and owing. Such assessment shall be made by the Administrator's issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period, and the amount of the assessment.

(d) Status of executed returns and assessments. Any return executed by or any assessment made by the administrator pursuant to this Title shall be prima facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

(e) Limitation of prosecutions. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this Title.

('64 Code, § 1523.05) (Ord. 2750, passed 12-4-84)

§ 1523.06 AUTHORITY TO MAKE INVESTIGATIONS.

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

('64 Code, § 1523.06) (Ord. 1567, passed 12-20-66)

§ 1523.07 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

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

('64 Code, § 1523.07) (Ord. 1567, passed 12-20-66)
§ 1523.08 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in § 1515.05. ('64 Code, § 1523.08) (Ord. 1567, passed 12-20-66)

§ 1523.09 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

(a) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Title shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall, upon conviction thereof be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than \$1,000 or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

(b) In addition to the above penalty, any employee of the city who violates the provisions of this section relative to the disclosures of confidential information shall be guilty of an offense punishable by immediate dismissal.

('64 Code, § 1523.09) (Ord. 1567, passed 12-20-66)

§ 1523.10 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid. ('64 Code, § 1523.10) (Ord. 1567, passed 12-20-66)

§ 1523.11 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The city, having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance No. 1953, passed June 8, 1971, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency," the Board of Trustees of such Regional Income Tax Agency, is authorized to administer and enforce the provisions of this Title as the agent of the city, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of such agency through the Administrator of such agency. Provided, however, the Administrator of such agency shall have no authority to abate penalties or interest provided for in §§ 1515.01 and 1515.02.

('64 Code, § 1523.11) (Ord. 1978, passed 12-7-71)

§ 1523.12 AUTHORITY TO ENTER AGREEMENT WITH OTHER MUNICIPAL CORPORATION.

In the event the Administrator, on behalf of the city, enters into an agreement with any other municipal corporation to act as agent of the city for the purpose of administering the income tax laws of the city and of providing a central facility for the collection of the income tax, as provided in § 1523.11, then all or a part of the duties and authority of the Administrator may be delegated by such agreement to such other municipal corporation.

('64 Code, § 1523.12) (Ord. 1567, passed 12-20-66)

CHAPTER 1525: BOARD OF REVIEW

Section

- 1525.01 Board of Review established
- 1525.02 Duty to approve regulations and to hear appeals
- 1525.03 Right of appeal

§ 1525.01 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Law Director, or a person or employee in the Law Department designated by him and approved by Council, a resident of the city, not holding any city office or city employment, and a member of Council to be elected by that body, is hereby created. The term of office for the Council representative and citizen member shall be two (2) years. The Board shall select, each year for a one-year term, one (1) of its members to serve as Chairman and one (1) to serve as Secretary. 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 §1523.09 with reference to the confidential character of information required to be disclosed by this Title shall apply to such matters as may be heard before the Board on appeal.

('64 Code, § 1525.01) (Ord. 2649, passed 3-1-83)

§ 1525.02 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

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

('64 Code, § 1525.02) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

§ 1525.03 RIGHT OF APPEAL.

(a) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this Title may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator, provided the taxpayer making the appeal has filed with the city the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state the reasons why the decision should be deemed incorrect or unlawful.

(b) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. Such hearing shall be scheduled within forty-five (45) days from the date of appeal. The Board's ruling must be made within thirty (30) days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within fifteen (15) days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

(c) For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

('64 Code, § 1525.03) (Ord. 1567, passed 12-20-66; Am. Ord. 4173, passed 5-3-05)

CHAPTER 1527: OTHER PROVISIONS

Section

[1527.01](#) Declaration of legislative intent

[1527.02](#) Collection of tax after termination of Title

§ 1527.01 DECLARATION OF LEGISLATIVE INTENT.

If any sentence, clause, section or part of this Title, 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 Title and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Title. It is hereby declared to be the intention of Council that this Title would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

('64 Code, § 1527.01) (Ord. 1567, passed 12-20-66)

§ 1527.02 COLLECTION OF TAX AFTER TERMINATION OF TITLE.

(a) This Title shall continue effective 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 Title 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 Title shall have been fully terminated, subject to the limitations contained in §§ 1517.01, 1517.02, 1517.03, 1515.05, 1515.06 and 1515.07.

(b) Annual returns due for all or any part of the last effective year of this Title shall be due on the date provided in §§ 1511.01 and 1513.02 as though the same were continuing.

('64 Code, § 1527.02) (Ord. 1567, passed 12-20-66)

CHAPTER 1529: TAX ADMINISTRATOR

Section

[1529.01](#) Establishment, appointment and term

[1529.02](#) Duties

§ 1529.01 ESTABLISHMENT, APPOINTMENT AND TERM.

The office of Municipal Income Tax Administrator is hereby established, such Administrator to be appointed by the Mayor at the organizational meeting of Council at its first regular meeting in even numbered years, such appointment to be subject to confirmation by a majority of the members elected to Council. The term of such office shall be for two years.

('64 Code, § 1529.01) (Ord. 1990, passed 1-2-72)

§ 1529.02 DUTIES.

The Administrator of the municipal income tax shall have the duties and the authority provided in Chapter 1523, and such Administrator shall perform any and all other duties in the administration of the municipal income tax not inconsistent with Chapter 1523 as the Mayor may direct.

('64 Code, § 1529.02) (Ord. 1990, passed 1-2-72)