

TITLE NINE - Taxation
 Chap. 181. Income Tax.
 Chap. 183. Motor Vehicle Tax.

CHAPTER 181
Income Tax

<p>181.01 Definitions. 181.02 Levy of income tax. 181.03 Effective date. 181.04 Return and payment of tax. 181.05 Collection at source. 181.06 Declarations. 181.07 Credit for tax paid to other municipality. 181.08 Duties of Tax Administrator and clerks.</p>	<p>181.09 Inquisitorial powers. 181.10 Interest and penalties. 181.11 Collection of unpaid taxes. 181.12 Allocation of funds. 181.13 Exemptions. 181.14 Refunds. 181.15 Duration. 181.16 Mandatory filing. 181.17 Separability. 181.99 Penalty.</p>
---	---

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
State income tax - see Ohio R.C. Ch. 5747

181.01 DEFINITIONS.

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

- (a) "Association" means a partnership, limited partnership, limited liability company, S corporation, or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "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.
- (c) "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.
- (d) "Domicile" means the principal place of residence that a taxpayer intends to use for an indefinite period of time and to which the taxpayer intends to return whenever he or she is absent. A taxpayer has only one domicile even though he or she may have more than one residence.

- (e) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (f) "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.
- (g) "Estimated tax liability" means the amount that a taxpayer estimates to be the taxpayer's liability for the income taxes levied in this chapter for a year prior to applying any credits, estimated tax payments, or withheld taxes for the year.
- (h) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Fiscal year taxpayer" means a taxpayer that reports the Municipal income taxes levied under this chapter on the basis of a twelve-month period that does not coincide with the calendar year.
- (j) "Generic form" means an electronic or paper form designated for reporting estimated Municipal income tax and annual Municipal income tax liability under this chapter that is not prescribed by the Municipality for reporting the income tax levied in this chapter, provided that the generic form, once completed and filed, contains all of the information required to be submitted with the Municipality's prescribed returns, reports, or documents.
- (k) "Gross receipts" means the total income from any source whatsoever.
- (l) "Income from a pass-through entity" means partnership income of partners, distributive shares of shareholders of an S corporation, membership interests of members of a limited liability company, or other distributive or other proportionate ownership shares of other pass-through entities.
- (m) "In the Municipality" includes all municipally owned lands not situated within the boundaries of another municipality.
- (n) "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under similar laws of another state.
- (o) "Net profits" means the Federal Taxable Income (FTI), before net operating losses and special deductions, (currently line 28 of the federal 1120) and then making the following adjustments:
 - (1) Deduct intangible income to the extent it is included in FTI;
 - (2) Add 5% of the amount deducted as intangible income, but not the portion of the intangible income related to the sale, exchange or disposition of property described in Section 1221 of the Internal Revenue Code (IRC);
 - (3) Add any losses allowed in the computation of FTI if the losses relate to the sale, exchange, or disposition of property described in Section 1221 of IRC;
 - (4) Except for depreciation recapture described in Section 1245 or 1250 of IRC, deduct income and gain included in FTI to the extent the income and gain relate to the sale, exchange or disposition of an asset described in Section 1221 or 1231 of IRC;
 - (5) Add taxes on or measured by net income allowed as a deduction in the computation of FTI;
 - (6) In the case of a real estate investment trust or regulated investment company, add all dividends, distributions, or amounts set aside for the benefit of investors and allowed as a deduction in the computation of FTI;

- (7) In the case of a taxpayer that is not a C corporation and is not an individual, the taxpayer shall compute FTI as if the taxpayer were a C corporation and, in addition to the above adjustment, shall not be allowed a deduction for guaranteed payments, payments to a qualified self-employed retirement plan, payments for health or life insurance for an owner or owner-employee, or federal self-employment tax.
- (8) Uses apportionment formula to apportion profit to each municipality using an equally weighted formula of property, payroll, and sales (the property factor uses original cost instead of net book value). If the apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations.
- (p) "Nonresident" means an individual domiciled outside of the Municipality or an unincorporated business entity not having an office or place of business within the Municipality. (Ord. 2586. Passed 12-15-03.)
- (q) "Other compensation" includes tips, gratuities, all types of income upon which federal or state income taxes are deferred, sick pay, supplemental unemployment payments, executor's, administrator's and guardian's fees, lottery winnings in excess of ten thousand dollars (\$10,000), and non-transferable employee stock options intended as wages. (Ord. 2625. Passed 10-11-04.)
- (r) "Other entity" means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located within the Municipality.
- (s) "Owner" means a partner of a partnership, a shareholder of an S corporation, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.
- (t) "Pass-through entity" means a partnership, S corporation, limited liability company, or any other class of entity, the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (u) "Person" means every natural person, partnership, limited Partnership, corporation, fiduciary or association. 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.
- (v) "Place of business" means any bona fide office, other than a mere statutory office, any 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 or her regular employees regularly in attendance.
- (w) "Resident" means an individual domiciled in the Municipality or an unincorporated business entity having an office or place of business within the Municipality.
- (x) "S Corporation" means a corporation that has made an election under Sub-chapter S of Chapter 1 of Sub Title A of the Internal Revenue Code for its taxable year.
- (y) "Tax Administrator" means the individual designated by this chapter (Auditor of the Municipality), whether appointed or elected, and who is charged with direct responsibility for the administration and enforcement of the provisions of this chapter.
- (z) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (aa) "Taxable year" means the calendar year, or the fiscal year ending during such calendar 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, unless approved by the Tax Administrator, the taxable year of an individual shall be a calendar year.

- (bb) "Taxpayer" means a person, whether an individual, fiduciary, partnership, limited partnership, association, corporation, or any other entity, required hereunder to file a return or pay a tax.
- (cc) The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 2586. Passed 12-15-03.)
- (dd) "Qualifying wages" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
 - (1) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
 - (2) Add the following amounts:
 - A. Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;
 - B. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax. Subsection (dd)(1)B. hereof applies only to those amounts constituting ordinary income.
 - C. Any amount not included in wages if the amount is an amount described in Section 401(k) or 457 of the Internal Revenue Code. Subsection (dd)(2)C. applies only to employee contributions and employee deferrals.
 - D. Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (3) Deduct any amount attributable to a nonqualified deferred compensation plan or program described in Section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and has, by resolution or ordinance, been exempted from taxation by the municipal corporation.
 - (4) Deduct any amount included in wages if the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has, by resolution or ordinance, exempted the amount from withholding and tax.
(Ord. 2645. Passed 2-28-05.)

181.02 LEVY OF INCOME TAX.

To provide funds for the purpose of general Municipal operations and other Municipal purposes of the Municipality of Crestline, there by, and hereby is, levied a tax upon earnings at the rate of two percent (2%) commencing July 1, 1990, upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after July 1, 1990, by resident individuals of the Municipality.
- (b) On all salaries, wages, commissions and other compensation earned on and after July 1, 1990, by nonresident individuals of the Municipality of Crestline for work done or services performed or rendered in the Municipality.
- (c) On the net profits attributed to Crestline, earned on and after July 1, 1990, of all resident unincorporated business, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the Municipality.

- (d) On the portion of the distributive share of the net profit earned on and after July 1, 1990, of a resident individual, partner or owner of a resident unincorporated business entity attributable to Crestline and not levied against such unincorporated business entity.
- (e) On the net profits attributable to Crestline earned on and after July 1, 1990, of all nonresident unincorporated business, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality.
- (f) On that portion of the distributive share of the net profits earned on and after July 1, 1990, of a resident individual, partner or owner of a nonresident unincorporated business entity not attributable to Crestline and not levied against such unincorporated business entity.
- (g) On the net profits earned on and after July 1, 1990, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the Municipality.
- (h) Business Allocation Percentage Formula.

(1) In the taxation of income which is subject to Municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a municipal corporation shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipal corporation, then only such portion shall be considered as having a taxable situs in such municipal corporation for purpose of municipal income taxation. In the absence of such records, net profits from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of:

- 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 such municipal corporation 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 thereof by eight.
- B. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries and other compensation paid during the same period to persons employed in the profession, wherever their services are performed.
- C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulation, be substituted so as to produce such result.

- (2) As used in subsection (h)(1) hereof, "sales made in a municipal corporation" means:
- A. All sales of tangible personal property which is delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation.
 - B. All sales of tangible personal property which is delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
 - C. All sales of tangible personal property which is shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - D. In the computation of any tax due under this chapter, a business loss of a previous tax year shall not be allowed or carried forward to reduce the tax due in any subsequent tax year.
(Ord. 1810. Passed 2-5-90.)

(i) That the income of an individual who has taken a deduction for federal income tax purposes as reported on Form 2106 and which taxpayer has not been allowed a deduction for this amount for which they have applied under the municipal income tax ordinance where the income was earned, shall be allowed a deduction under this ordinance minus the amount of credit received from the municipality where the income as earned upon satisfactory proof presented to the Tax Administrator.
(Ord. 2645. Passed 2-28-05.)

181.03 EFFECTIVE DATE.

Such tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after July 1, 1990, and with respect to the net profit of businesses, professions and other activities earned on and after July 1, 1990. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after July 1, 1990, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.
(Ord. 1810. Passed 2-5-90.)

181.04 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer whose earnings or profits are subject to the tax imposed by this chapter shall, on or before April 15, 1991 and on or before April 15 of each year thereafter, make and file a final return with the Tax Administrator on a form obtainable from the Tax Administrator or on a generic form as defined in this chapter, setting forth the aggregate amount of salary, wages or other compensation and net profits earned by him or her during the preceding year of period and subject to the tax, together with other pertinent information as the Tax Administrator may require. Provided, however, that when the final return is made for a fiscal year or other period different from the calendar year, the return shall be made within the 15th day of the fourth month following the end of the taxpayer's fiscal year.

(b) The return shall also show the amount of the tax imposed on such earning and profits. The taxpayer making the return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereof. Provided, however, that where any portion of such tax shall have been paid by such taxpayer pursuant to the provisions of Section 181.05 and/or Section 181.06, credit for the amount 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 the final return.

(c) The return of an employee showing the amount of tax deducted by the employer or employers from the salaries, wages or compensation of any employee, and paid by him or them to the Tax Administrator, shall be accepted as the return required of any such employee whose sole income subject to the tax of two percent (2%) is such salary, wages or compensation.

(d) Beginning January 1, 2001 any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of an income tax return required in this chapter. The taxpayer shall make the request by filing a copy of the taxpayer's request for a Federal filing extension with the office of the Tax Administrator. The request for extension shall be filed not later than the last day for filing the income tax return required by paragraph (a) of this section. The Municipality shall grant such a request for an extension for a period of not less than the last day of the month following the month to which the due date of the federal return has been extended. The Municipality may deny a taxpayer's request for an extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the Federal extension, owes the Municipality any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing an income tax return does not extend the last date for paying the income tax without penalty, unless the Municipality grants an extension, in writing, to that date. In addition, if unusual circumstances exist for the taxpayer, the Tax 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 three (3) months beyond any extension granted by the Internal Revenue Service for the filing of the Federal income tax return. However, the Tax Administrator may require a tentative return, accompanied by payment of the amount of the tax shown to be due thereon by the date the request for extension is filed and the actual tax to be paid within the period as extended. The taxpayer shall be responsible for interest and penalty if the amount shown on the tentative return is less than the actual amount determined to be payable in the final return.

(e) A tax in the amount of one dollar (\$1.00) or less will not be collected or refunded, provided that this subsection shall not be applicable to taxes collected at the source under the provisions of Section 181.05, and provided further that nothing in this subsection shall dispense with any requirement of this chapter relating to the filing of declarations, returns and questionnaires.

(f) If a business has sustained a net operating loss in any taxable year, such loss may not be carried forward or backward to any other taxable year.

(g) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(h) The residents of the Municipality are subject to taxation upon net income from rentals on all properties located in the Municipality, and/or on all properties located outside the Municipality, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those other municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the Municipality are subject to such taxation only if the real property is situated within the Municipality and shall receive no credit for taxes paid to another municipality.

(i) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(j) In no case may a taxpayer deduct any work related expenses from W-2 wages such as 2106 expenses that may have been deducted on the federal return.
(Ord. 2586. Passed 12-15-03.)

181.05 COLLECTION AT SOURCE.

(a) Each employer within the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) 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 the month following the close of each calendar quarter, make a return and pay to the Tax Administrator the amount of taxes so deducted. Such return shall be on a form or forms prescribed by or acceptable to the Tax Administrator, or on a generic form, and shall be subject to the rules and regulations prescribed therefor by 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.

(b) Each employer who does not maintain a permanent office or other place of business within the Municipality, but employs one or more persons working in the Municipality on a salary, wage, commission or other compensation basis, is considered a non-resident employer and shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) per annum on the gross salary, wage, commission or other compensation due by said employer to such employee or employees and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Tax Administrator the amount so deducted.

(c) Such employer, whether a resident employer or a non-resident employer, in collecting the tax shall be deemed to hold the same until payment is made by such employer to the Municipality, as a Trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees, shall until the same is paid to the Municipality be deemed a trust fund in the hands of such employer.
(Ord. 2586. Passed 12-15-03.)

(d) All employers shall withhold the taxes levied by this ordinance on the amount of qualifying wages as defined in Section 3121(a) of the Internal Revenue Code, adjusted as provided in Ohio R.C. 718.03, generally the Medicare Wage Box on Form W-2. Where the Medicare Wage Box is not the largest figure on the W-2, the employer shall file a written explanation.

(e) Wage Reconciliation Forms (W-3) shall be filed by no later than February 28 following the close of the calendar year.

(f) In addition to the wage reporting requirements of this section, any person, firm or corporation required by the Internal Revenue Service to report on Form 1099 - Misc. payments to individuals not treated as employees for services performed, shall also report such payments to the City when the services were performed in the City. The information may be submitted on a listing and shall include the name, address and social security number (or federal identification number) and the amount of payment made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year. (Ord. 2645. Passed 2-28-05.)

181.06 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to the provisions of Section 181.05, or who engages, in any business profession, enterprise or activity subject to the tax imposed by Section 181.02, 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 shall be withheld and remitted to the Municipal in accordance with Section 181.05, such person need not file a declaration.

(b) Filing Date.

- (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within one hundred five (105) days of the date the taxpayer becomes subject to the tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within one hundred five (105) days after the beginning of each fiscal year or period accompanied by a payment of at least one-fourth of the estimated annual tax shown due thereon, and shall make quarterly payments each three months thereafter.

(c) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator, or a generic form, provided, however, credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.07, credit may be taken for tax to be paid or to be withheld and remitted to another taxing Municipality.

(d) 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.

(e) Such declaration of estimated tax to be paid to the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before June 30, September 30, and December 31. Provided, however, that in case an amended declaration has been filed, the unpaid balance due thereon shall be paid in equal installments on or before the remaining payment dates.

(f) On and after July 1, 2003, and notwithstanding any other provision in this section a taxpayer who is an individual must remit payment of estimated taxes as follows:

- (1) Not more than twenty-two and one-half percent (22-1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before April 15;

- (2) Not more than forty-five percent (45%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before July 31;
- (3) Not more than sixty-seven and one-half percent (67-1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the October 31; and
- (4) Not more than ninety percent (90%) of the taxpayer's estimated tax liability for the previous year shall be required to be remitted on or before January 31.

Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates described above.

(g) On and after January 1, 2003, and notwithstanding any other provision in this section a taxpayer that is not an individual shall remit payments of estimated taxes according to the following:

- (1) Not more than twenty-two and one-half percent (22-1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before April 15 or, in the case of a fiscal year taxpayer, the 15th of the fourth month of the taxpayer's taxable year;
- (2) Not more than forty-five percent (45%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of June or, in the case of a fiscal year taxpayer, the 15th day of the sixth month of the taxpayer's taxable year;
- (3) Not more than sixty-seven and one-half percent (67-1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of the ninth month of the taxpayer's taxable year; and
- (4) Not more than ninety percent (90%) of the taxpayer's estimated tax liability for the previous year shall be required to be remitted on or before the 15th day of December or, in the case of a fiscal year taxpayer, the 15th day of the twelfth month of the taxpayer's taxable year.

(h) An amended declaration shall be filed on or before January 31 of any year or in the case of a taxpayer on a fiscal year account basis, on or before the date fixed by regulation of the Tax Administrator, if it appears that the original declaration made for such year underestimated the taxpayer's income by twenty percent (20%) or more. At such time a payment shall be made, if upon the filing of the return required by Section 181.04, it appears that the taxpayer did not pay eighty percent (80%) of his tax liability, as shown on such return, on or before the date above determined when the fourth estimated payment was due, the difference between eighty percent (80%) of the taxpayer's liability and the amount of estimated tax liability he actually paid on or before fourth estimated payment due date shall be subject to the interest and penalty provision of Section 181.10, however, any taxpayer whose declared tax is equal to or greater than the tax paid in the previous year shall not be assessed any interest or penalty for any increased taxes found to be due in the current year.

(i) On or before the 15th day of the fourth month of the tax 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 Municipality shall be paid therewith in accordance with the provisions of Section 181.04.

(Ord. 2491. Passed 12-17-01.)

181.07 CREDIT FOR TAX PAID TO OTHER MUNICIPALITY.

(a) Where a resident is subject to a municipal income tax in another municipality, he shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed one and one-half percent (1-1/2%) on such income earned in such other municipality where such tax is paid.

(b) Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal compensation for work done or services performed or rendered outside of the Municipality, if it be made to appear that he has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed one and one-half percent (1-1/2%) on such income earned in such other municipality where such tax is paid.

(c) On and after January 1, 2003, the owners of a pass-through entity that are domiciled in the Municipality shall be allowed a credit for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the Municipality, with the amount of such credit being equal to the lesser of the following amounts, but in no event to exceed one and one-half percent (1-1/2%):

- (1) The amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state, apportioned ratably according to the ownership interest of all owners of the entity; or
- (2) The amount of tax that would be imposed on the pass-through entity by the Municipality, if the pass-through entity conducted business in the Municipality, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership of all owners of the entity.

(d) A claim for refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.
(Ord. 2493. Passed 1-7-02.)

181.08 DUTIES OF TAX ADMINISTRATOR AND CLERKS.

(a) The taxes imposed and levied pursuant to the provisions of this chapter shall be administered by the Tax Administrator (Auditor) and such deputies and clerks within the Auditor's Department as heretofore provided or as may be from time to time be determined by Council.

(b) The Tax Administrator shall prescribe the form of accounts and reports to be rendered to his or her office and the form and method of keeping accounts within the income tax office. The Tax Administrator shall be charged with the internal audit of all accounts and returns including the correction of the returns.

(c) The Tax Administrator shall make rules, regulations (not inconsistent with those adopted by Council or State law), decisions and amendments, or changes thereto, necessary regarding operation of the tax.

(d) Any person having legal standing that is dissatisfied with any ruling or decision made by the Tax Administrator may appeal therefrom to the Board of Tax Appeals. Such appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful, and shall be filed with the Tax Administrator within thirty (30) days after the Tax Administrator issues such decision that is being appealed.

(e) The Board of Tax Appeals shall consist of three (3) electors of the municipality, one being appointed by the Mayor, one being appointed by the Tax Administrator, and the third to be selected by first two appointed. No member shall be appointed to the Board of Tax Appeals who holds other public office or appointment. The members of the Board of Review shall serve without pay and for a term of five (5) years. The members may serve for an unlimited number of terms. (Ord. 2491. Passed 12-17-01.)

(f) Whenever the Tax Administrator issues a decision regarding an income tax obligation subject to appeal under subsection (d) hereof, the Tax Administrator shall notify the taxpayer in writing that he/she may appeal that decision to the Board of Tax Appeals by filing a written request for a hearing containing a statement as to why the decision was incorrect or unlawful with the Tax Administrator within thirty days after the decision.

(g) The Board shall schedule a hearing within forty-five days after the receipt of the request for the hearing. The taxpayer may waive the hearing in writing. The taxpayer may appear before the Board in person and may be represented by an attorney, certified public accountant, or other representative.

(h) The Board may affirm, reverse or modify the Tax Administrator's decision or any part of the decision. The decision shall be issued within ninety days of the hearing and shall be mailed to the taxpayer and the Tax Administrator within fifteen days after it is issued.

(i) The Tax Administrator or the taxpayer may appeal in accordance with Ohio R.C. 5717.011.

(j) The Board of Tax Appeals shall adopt rules to govern its procedure not inconsistent with this Section and shall keep a record of its transactions. Such records shall not be considered public records under Ohio R.C. 149.43 and meetings of the Board of Tax Appeals shall not be considered public meetings under Ohio R.C. 121.22. (Ord. 2621. Passed 8-9-04.)

181.09 INQUISITORIAL POWERS.

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

(b) The Tax Administrator, or a duly authorized agent or employee, is hereby authorized to examine any person, employer or employee, under oath, concerning any income which was should have been returned for taxation, and for this purpose may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income.

(c) The refusal of such examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

(d) Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Municipality of Crestline for official purposes.

(e) Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof be deemed guilty of a misdemeanor of the third degree. In addition to the above penalties, any employee of the Municipality of Crestline who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the Municipality.
(Ord. 2491. Passed 12-17-01.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed by this chapter, including taxes withheld from wages by an employer, remaining unpaid after they have become due, shall bear interest in addition to the amount of the unpaid tax at the rate of one percent (1%) per month, and the taxpayers upon whom such taxes are imposed, and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter shall be liable, in addition to the tax and interest to a penalty in the amount of one percent (1%) per month on the amount of the unpaid tax for each month or fraction thereof.

- (1) Forty dollars (\$40.00) for individuals using a Social Security Number.
- (2) One hundred dollars (\$100.00) for corporations, businesses, associations, or other entities using a Federal Tax Identification Number.
(Ord. 2626. Passed 9-27-04.)

(b) The Tax Administrator may waive or remit any such interest or penalties as he or she, in his or her sole discretion, deems proper.

(c) Each year, during the month of January, the Tax Administrator may cause to be published in a newspaper of general circulation within the Municipality a list of persons who are delinquent in the payment of their Municipal Income Tax or who have otherwise failed to comply with the Income Tax regulations; provided that such persons have been notified by certified mail of the date of publication within thirty days prior to publication. (Ord. 2586. Passed 12-15-03.)

(d) Any person, firm or corporation required to file a W-3 Wage Reconciliation Form under Section 181.05(e) of this ordinance and fails to do so by February 28 following the close of the calendar year shall be assessed a penalty of ten dollars (\$10.00) for each W-2 covered or one hundred dollars (\$100.00), whichever is greater.
(Ord. 2645. Passed 2-28-05.)

181.11 COLLECTION OF UNPAID TAXES.

All taxes imposed and administered by this chapter shall be collectible, together with any interest and penalties thereon by suit, as other debts of like amount are recoverable.

- (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.
- (b) Prosecutions for an offense made punishable under this chapter shall be commenced within three years after the commission of the offense; provided that 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 years after the commission of the offense.
- (c) All applications for refund shall be made within three years after the tax was due or the return was filed, whichever is later.
(Ord. 1810. Passed 2-5-90.)

181.12 ALLOCATION OF FUNDS.

The funds collected under the provision of this chapter shall be disbursed each calendar year in the following order, to-wit:

- (a) Such part thereof as shall be necessary to defray all costs of administration and collection; of defending and enforcing the provisions of this chapter and all rules and regulations relating to the same, and such portions of established salaries and expenses of other officials and employees, as may be prescribed by Council, which are attributable to the defense, administration, collection and enforcement of the provisions of this chapter and related rules and regulations.
- (b) In those instances where claims, demands or judgments are entered against the Municipality which are predicated upon tort, negligence or nuisance attributable to a department, division, bureau or office of the Municipality which is unable to satisfy such claims, demand or judgment by reason of lack of operating or revenue funds, appropriations may be made from Income Tax funds to satisfy such claims, demands or judgments.
- (c) The balance of funds available, to be known as the net income tax fund, shall be disbursed as follows:
 - (1) From the proceeds produced by the levy, the first one and one-half percent (1-1/2 %) paid by any person or entity to the Municipality:

General Fund - 86%

Capital Improvement Fund - 5%

Street Construction Fund - 9%

- A. Provided that appropriations may be made from the Capital Improvement Fund for any of the following purposes: sanitary, storm sewer and street improvements and maintenance, equipment and improvements for recreation with repair to the present existing swimming pool to be considered as an improvement.
 - B. Provided further, that for the purposes of this subsection "Capital Improvements" shall be deemed to include: The purchase of equipment new or used for all departments; planning expenditures - which may result in future capital expenditures.
 - C. Provided further that no expenditure shall be made from the Capital Improvement Fund without specific authorization by Council.
- (2) All the remaining proceeds produced by the levy:

General Fund - 55%

General Fund - Police and Fire - 15%

Street Fund - 10%

Capital Improvement Fund - 10%

Capital Improvement Fund - Police and Fire - 10%

- A. Provided that appropriations may be made from the Capital Improvement Police and Fire Equipment Fund for any of the following purposes: equipment for the Police Department and equipment for the Fire Department.
- B. Provided further that no expenditure shall be made from the Capital Improvement Police and Fire Equipment Fund without specific authorization by Council.

(Ord. 2634. Passed 12-13-04.)

181.13 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying a tax upon the following:

- (a) Military pay or allowance of members of the Armed Forces of the United States.
- (b) Poor relief, pensions, social security, unemployment compensation (but not including supplemental unemployment compensation) and disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.
- (c) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational associations.
- (d) Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, or other exempt purposes.
- (e) Gains from involuntary conversions, gains or losses from the sale, exchange or other disposition of depreciable business property, and income from a decedent's estate during the period of administration (except such income from the operation of a business).
- (f) Earnings and income of all persons under eighteen years of age, whether residents or nonresidents.
- (g) As of January 1, 2001, compensation paid to a non-resident individual for personal services performed in the Municipality and employees of a non-resident employer working in the Municipality if the individual performs these services or duties in the Municipality on twelve (12) or fewer days during a calendar year. This exemption does not apply to professional entertainers or professional athletes or to the promoters of professional entertainment or sporting events and their employees.
- (h) Minister's housing allowance.
(Ord. 2491. Passed 12-17-01.)

181.14 REFUNDS.

Subject to the provisions of Section 181.04(e), should it appear that any taxpayer has paid more than the amount of tax to which the Municipality is entitled under the provisions of this chapter, a refund of the amount so overpaid shall be made, provided a proper claim for refund of overpayment of tax has been filed by the taxpayer, provided further, that a business loss or activity may not be credited against tax credits accrued through withholding by an employer.
(Ord. 1810. Passed 2-5-90.)

181.15 DURATION.

This chapter shall continue effective until termination or repealed according to law.
(Ord. 1810. Passed 2-5-90.)

181.16 MANDATORY FILING.

(a) Each resident of the Municipality being eighteen years of age or older, shall file a Municipal income tax form commencing with the year 1992. The first such form shall be filed on or before April 15, 1993 and on or before April 15 of each year thereafter with such forms being available from and filed with the Tax Administrator, provided; however, that when the final return is made for a fiscal year or other period different from the calendar year, the return shall be made within 105 days from the end of such fiscal year or other period.

(b) Each nonresident of the Municipality earning wages, salary, commissions or other taxable income shall file a tax return according to the provisions of subsection (a) above disclosing only those moneys earned within the Municipality.

(c) For nonresidents of the Municipality, the return of an employer or employers showing the amount of tax deducted by such employer or employers from the salaries, wages or compensation of any employee, and paid to the Tax Administrator shall be accepted as the return required of any such employee whose sole income subject to the Municipal income tax herein, is such salary, wages or compensation.
(Ord. 2491. Passed 12-17-01.)

181.17 SEPARABILITY.

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 finding shall affect only such clause, sentence, section or part and shall not affect or impair any of the remaining 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. 2491. Passed 12-17-01.)

181.99 PENALTY.

Any person, firm or corporation who shall fail, neglect or refuse to make any return, questionnaire, declaration or make any return required by this chapter; or any taxpayer who shall refuse, neglect or fail to pay the tax, penalties and interest imposed by this chapter; or any person, firm or corporation who shall refuse to permit the Tax Administrator or any duly authorized agent or employee, to examine his books, records and papers, or who, after having been duly served with process by the Tax Administrator or his or her agent, shall fail to appear and/or be examined in accordance with such process; or who shall knowingly make any incomplete, false or fraudulent return, who shall attempt do anything whatever to evade the payment of the whole or any part of the tax, shall be guilty of a misdemeanor of the third degree. Each offense shall be deemed a separate violation. The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse him from making a return, questionnaire or declaration or from paying the tax.
(Ord. 2491. Passed 12-17-01.)