

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

CHAPTER 181
 Income Tax

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CROSS REFERENCES

Power to levy - see Ohio Const., Art. XVIII, Sec. 3
 Limitations on use of income tax - see CHTR. §37
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718

181.01 PURPOSE.

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City and for all other lawful purposes, there shall be and is hereby, levied a tax on salaries, wages, commissions and other compensation and on net profits as hereinafter provided. See Section 181.17 for allocation of funds. (Ord. 1986-73. Passed 10-1-86.)

181.02. DEFINITIONS.

As used in this chapter, the following words and phrases shall have the meanings indicated in this section, unless the context clearly indicates or requires a different meaning. In all definitions and other sections of this chapter, the singular includes the plural and the masculine includes the feminine and the neuter.

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Board of Review" means the board created and constituted as provided in Section 181.16.

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- (c) "Business" means an enterprise, activity, profession, public utility or public service, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or other entity.
- (d) "Commissioner" means the same as Tax Commissioner. (See subsection (v).)
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United

States, the State of Ohio or other state, territory or foreign country or dependency.

(f) "Declaration of estimated tax" means the document which must be filed pursuant to Section 181.10.

(g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

(h) "Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, that employs one or more persons on a salary, wage, commission or other compensation basis.

(i) "Estimated income" means the taxable income earned in a taxable year, the tax on which is not collected pursuant to Section 181.07.

(j) "Estimated tax" means any tax which is imposed by this chapter and which is not collected pursuant to Section 181.07.

(k) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

(l) "Gross receipts" means the total income from any source whatsoever.

(m) "Net profit" means the net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expenses except the tax imposed by this chapter and Federal and other taxes based on income, either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, adjusted to the requirements of this chapter, excluding dividends and excluding income received from affiliated or subsidiary companies which own no property and do no business within the United States and in the case of an association without deduction of salaries paid to partners and other owners.

(n) "Nonresident" means an individual domiciled outside the City of Kent or who does not reside within the City of Kent for thirty days or more within any ninety-day period.

(o) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Kent.

(p) "Other Compensation" means all other income, the taxation of which is not prohibited by this chapter. Other compensation includes, but is not limited to, tips, tax shelter plans, gifts of any type for services rendered, vacation and holiday pay, wage continuation benefits, director's fees, stock options granted in connection with the performance of service and not designated as capital gains, property received in lieu of cash for services performed or rendered, sick pay, bonuses or incentive payments in whatever form, company closing benefits earnings designated as deferred compensation, any deferred income that is included as medicare wages and tips on federal form W-2, employer paid premiums for group term life insurance over fifty thousand dollars, depreciation recapture, ordinary income reported on federal form 4797, a stockholder's received or accrued distributive share of the net profits of an S-Corporation, and any winnings in excess of one hundred dollars (\$100.00) from lotteries, gaming, wagering, or gambling. (Ord. 2000-60. Passed 7-12-00)

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- (q) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity means the partners or members thereof and as applied to corporations, the officers thereof.
- (r) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is regularly occupied and used by the tax-payer in carrying on any business activity whether in person or through one or more employees regularly in attendance.
- (s) "Resident" means an individual domiciled in the City of Kent or who resides within the City of Kent for thirty days or more within any ninety-day period.
- (t) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Kent.
- (u) "Taxable income" means 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 chapter.
- (v) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (w) "Tax Commissioner" means the Commissioner of the Division of Taxation in the Budget and Finance Department of the City or the person executing the duties of the Commissioner.
- (x) "Taxpayer" means a person, whether an individual, partnership, association, corporation, or other entity required by this chapter to file a return and/or pay a tax. (Ord. 2000-60. Passed 7-12-00.)

181.03. IMPOSITION OF TAX.

- (a) Subject to the provisions of Section 181.20 an annual tax for the purposes specified in Section 181.01, shall be and is hereby imposed on and after July 1, 1984 at the rate of two percent (2%) per annum upon the following:
 - (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of the City of Kent.
 - (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in the City of Kent or for the City of Kent.
 - (3) A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all resident unincorporated business, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.
 - (4) A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all nonresident unincorporated business, professions or other entities derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

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- B. On the portion of the distributive share of the net profits earned during the effective period of this chapter, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.
- (5)
- A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.
 - B. The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City of Kent shall be determined as provided in Ohio R.C. 718.02 and in accordance with the regulations adopted by the Board of Review pursuant to this chapter.
 - C. Unless taxes are withheld by employers pursuant to Section 181.09, or unless a taxpayer can prove otherwise, he or she shall be presumed in 1984 to have received his or her taxable income over the entire year without allocation to any particular month or months, in which case the entire amount of income subject to tax in 1984 shall be taxed at the rate of one and six hundred twenty five thousandths of one percent (1.625%). In cases where a taxpayer desires to prove that a portion of his or her income was received either before or after July 1, 1984, he or she must also be able to prove the manner in which any expenses which are alleged to have been incurred in the production of said income can be apportioned between the two six month periods in question. (Ord.1984-7. Approved by voters 5-8-84.)

181.04. DETERMINATION OF TAXABLE INCOME.

- (a) 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 purposes of municipal income taxation. In the absence of such records, net profit 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 purpose of municipal income taxation in the same proportion as the average ratio of:

- (1) 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 of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, "real property" includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (2) Wages, salaries and other compensation paid during the taxable period to 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 business or profession, wherever their services are performed;
 - (3) 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 regulations be substituted so as to produce such result.
- (b) As used in subsection (a) hereof, "sales made in a municipal corporation" means:
- (1) 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;
 - (2) 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;

- (3) 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. (Ord. 1969-133. Passed 11-21-69.)

181.041. TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 181.04(a) 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 the total in order to obtain the business allocation percentage referred to in Section 181.04.

A factor is applicable even though it may be allocable entirely in or outside the City. (Ord. 1986-73. Passed 10-1-86.)

181.05. CONSOLIDATED RETURNS.

(a) Filing consolidated returns may be permitted or required in accordance with regulations prescribed by the Tax Commissioner.

(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 operated a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Tax Commissioner shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the City of Kent. If the Tax Commissioner finds net profits are not properly allocated to the City by reason of transactions with stock-holders 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 or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the City. (Ord. 1969-133. Passed 11-21-69.)

181.051. OPERATING LOSS, CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1965, 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 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 Commissioner shall provide by rules and regulations, the manner in which such net operating loss carry forward shall be determined. (Ord. 1986-73. Passed 10-1-86.)

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181.06. EXEMPTIONS.

The tax provided for herein shall not be levied upon:

- (a) Military pay or allowance of members of the armed forces of the United States, and of members of their reserve components, including the Ohio National Guard, 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, supplemental unemployment benefits, strike benefits, old age pensions or similar annuities including permanent disability benefits received from local, State or Federal governments or charitable, religious or educational organizations; proceeds of insurance paid by reason of the death of the insured, jury fees.
- (c) Gifts or gratuities not in the nature of compensation for services rendered.
- (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) Any person under eighteen years of age.
- (f) 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.)
- (g) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (h) 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 City to impose net income taxes.
- (i) Alimony received.
- (j) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (k) Income derived from intangible property.
(Ord. 2000-60. Passed 7-12-00)

181.07. RETURN AND PAYMENT OF TAX.

(a) Every natural person of age eighteen or older and every other person who resides, works or operates a business in whole or in part, for any part of a tax year, within the City, shall, whether or not a tax is due thereon and regardless of whether such person is subject to income tax withholding, make and file a return on or before April 30 of the year following the effective date of this chapter, and on or before April 30 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 months from the end of such fiscal year or period.

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

(1) The aggregate amounts of salaries, wages, commissions and other compensation paid 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;

(2) The amount of the tax imposed by this chapter on such earnings and profits; and

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

(c) The Commissioner may extend the time for filing of the annual return upon the request of the filer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Commissioner 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 shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) (1) The person making a return, shall at the time of the filing thereof, pay to the Commissioner the amount of tax shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.09, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.10, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with and pursuant to Sections 181.09, 181.10 and 181.18, 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 return.

(2) A person who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his or her election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. (Ord. 1983-127. Passed 10-5-83.)

181.08. AMENDED RETURNS.

Where necessary an amended return shall 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 and/or limitations contained in Sections 181.14 and 181.18. Such amended returns shall be on a form obtainable, on request, from the Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

Within three months from the final determination of any Federal tax liability affecting the taxpayer's Kent liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment. (Ord. 1964-122. Passed 12-30-64.)

181.09. COLLECTION AT SOURCE.

- (a) (1) Each employer shall, at the time of the payment of any salary, wage, commission or other compensation paid on and after April 1, 1965, deduct the tax imposed under Section 181.03 of the gross salaries, wages, commissions or other compensation due by the employer to his or her employees who are subject to the provisions of this chapter. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent. Each employer shall, on or before the end of the month following the close of each calendar quarter, make a return and pay to the Commissioner the amount of taxes so deducted, subject to the provisions of subsections (d), (e) and (g) hereof. Returns shall be on a form prescribed by or acceptable to the Commissioner and shall be subject to the rules and regulations prescribed therefor by the Commissioner. 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. Such approval for quarterly filings and payments may be withdrawn by the Commissioner when it is to the best interest of the City to do so;
- (2) It shall be the responsibility, jointly and severally, of the president and treasurer of each corporation required to withhold taxes on employee's wages, to see that all taxes so withheld are paid to the City in accordance with the provisions of this chapter. In the event taxes withheld are not paid to the City in accordance with the provisions of this chapter, the president and treasurer of such corporation shall each be criminally liable under provisions of this chapter.

- (b) Such employer, in collecting the tax, shall be deemed to hold to 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 or her employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.
- (c) On or before January 31 of each year beginning with the year 1966, each employer shall file a withholding return in a form prescribed by and obtainable, upon request, from the Commissioner, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his or her employees and such other information as may be required by the rules and regulations adopted by the Commissioner.
- (d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him or her exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.
- (e) Such employer who deducts the tax of two hundred dollars (\$200.00) or more per month shall pay the Commissioner before the fifteenth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer exceeds two hundred dollars (\$200.00) in taxes withheld. The monthly withholding requirement may be waived by the Director of Budget and Finance if proof of quarterly filing of Federal withholding is provided.
- (f) Payments shall be on a form furnished by or obtainable upon request from the Administrator.
- (g) Any taxpayer who files a return for a fiscal year different from the calendar year shall file and pay withholding taxes monthly. (Ord. 1986-73. Passed 10-1-86.)

181.10. DECLARATIONS.

- (a) (1) A declaration of estimated tax shall be filed by every taxpayer who reasonably may be expected to have taxable income, the tax on which is not or will not be collected pursuant to Section 181.09, and who is not exempted from such filing requirement pursuant to subsection (a)(4) hereof.
- (2) The declaration which is required to be filed pursuant to subsection (a)(1) hereof, in addition to such other matters as the Commissioner may require in order to identify the declarant and verify the information set forth therein, shall set forth the taxpayer's estimated income together with the estimated tax due thereon.
- (3) A taxpayer's final return, if required by Section 181.07, for the preceding taxable year may be used as the basis for computing the taxpayer's declaration of estimated tax for the current taxable year. In the event that a taxpayer has not previously been required to file a return, the declaration of estimated tax shall be based on a good faith estimate of the taxpayer's estimated income for the current taxable year; provided, however, that any declaration of estimated tax which reports less than eighty percent (80%) of the tax imposed on estimated income in the final return, or as determined by the Commissioner to be imposed, shall conclusively be presumed not to have been filed in good faith.

- (4) In the event that the estimated tax which otherwise would be reported on a declaration of estimated tax is less than sixty dollars (\$60.00) for the taxable year in question a declaration of estimated tax need not be filed.
- (b) (1) A declaration of estimated tax, when required to be filed, shall be filed on or before April 30 of each year during the life of this chapter or within four months of the date the taxpayer becomes subject to the tax for the first time, whichever time is earlier.
(2) Taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (c) (1) Declarations of estimated tax shall be filed upon a form or forms furnished by, or obtainable from the Commissioner.
(2) The original estimate of tax liability or any subsequent amendment thereof, as set forth in a declaration of estimated tax, may be increased or decreased by filing an amended declaration on or before a quarterly payment date, as set forth in subsection (d)(1) hereof, upon a form or forms furnished by or obtainable from the Commissioner.
- (d) (1) The estimated tax which is reported in a declaration of estimated tax may be paid in full with the declaration or in equal installments on or before the last day of the fourth, seventh, tenth and thirteenth month after the beginning of the taxable year in question.
(2) The declaration of estimated tax must be accompanied by at least one-fourth of the estimated tax shown due thereon.
(3) In the event an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments over the remaining payment dates.
- (e) The filing of a declaration of estimated tax does not relieve the taxpayer of the necessity of filing a final return even though there is no change in the declared tax liability. (Ord. 1982-122. Passed 10-6-82.)

181.11. DUTIES OF TAX COMMISSIONER; BOND.

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

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

(c) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon if any. Such assessment shall be collected in accordance with the rules and regulations as set forth by the Tax Commissioner and approved by the Board of Review.

(d) (1) The Commissioner 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 Commissioner that, due to certain hardship conditions, he or she 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 or her under this chapter.

(2) 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 Section 181.14 and 181.15 shall apply.

(e) The amount of bond for the position of Tax Commissioner is established under Section 149.08. The Director of Budget and Finance is hereby directed and authorized to make payment for the premium for such bond from the Incidental Account of the Income Tax Office, Account 20-A-5.

(f) The Tax Commissioner is authorized to enter into an agreement on behalf of the City with the Secretary of the Treasury for the purpose of withholding City income or employment taxes from the compensation of Federal employees whose regular place of Federal employment is within the territorial jurisdiction of the City. (Ord. 1986-73. Passed 10-1-86.)

181.12. INVESTIGATIVE POWERS OF TAX COMMISSIONER.

(a) The Commissioner, 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 believed to be subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return has been made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, within ten days following a written request by the Commissioner 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 Commissioner is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.
- (c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with any order or subpoena of the Commissioner authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.
- (d) 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, or except in accordance with proper judicial order. No person shall divulge such information in violation of this chapter.
- (e) Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of three years from the date his or her return is filed, or the withholding taxes are paid. (Ord. 1964-122. Passed 12-30-64.)

181.13. INTEREST AND PENALTIES.

- (a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction thereof.
- (b) In addition to interest as provided in subsection (a) hereof, the following penalties based on the unpaid tax are hereby imposed for failure to pay taxes when due or to remit taxes withheld from employees when due:

If paid within the following period of time from due date (months)	The penalty, calculated as a percentage of the amount of taxes due is (%)
Less than 1	5
More than 1 but less than 2	10
More than 2 but less than 3	15
More than 3 but less than 4	20
More than 4 but less than 5	25

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- (c) In addition to the penalties provided in subsection (b) hereof, the following penalties are hereby imposed:
 - (1) For failure to file timely a final return with tax owing, twenty five dollars (\$25.00); for failure to file timely a final return with no tax owing within two months of the due date of the final return, fifteen dollars (\$15.00); and
 - (2) For failure to file a good faith declaration of estimated tax for a taxable year, fifteen percent (15%) of the tax owed on the final return and for failure to pay total estimated tax within 13 months of the beginning of the taxable year for which a good faith declaration of estimated tax was filed, fifteen percent (15%) of the balance of the estimated

tax then owing. (Ord. 2000-60. Passed 7-12-00)

(d) A penalty shall not be assessed on an additional tax assessment made by the Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Commissioner; 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, provided that an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability. (Ord. 2000-60. Passed 7-12-00)

(e) In addition to the situations described in subsection (d) hereof, the Commissioner shall abate the interest and penalties otherwise imposed by this section in the following instances:

- (1) When the taxpayer has exercised ordinary prudence in the selection of a competent and reputable tax preparer, but such preparer has been negligent in preparing or filing the tax return;
- (2) When the taxpayer has relied upon the written advice of a competent and reputable tax preparer, which advice is wrong;
- (3) When the taxpayer has relied upon the written or oral advice of the Commissioner or an employee of the Commissioner and such advice is wrong;
- (4) If the taxpayer is physically or mentally ill to such an extent as to render such taxpayer incapable of competently signing and participating in the preparation of the taxpayer's return; or
- (5) If the taxpayer is separated from the taxpayer's spouse and has relied upon the spouse to file a return in cases where such spouse has filed returns previously on behalf of the taxpayer.

(f) In addition to interest as provided in subsection (a) hereof, a penalty based on the unpaid tax is hereby imposed for failure to pay taxes withheld from employees: ten percent (10%) per month or fraction thereof. Any person required to withhold the tax who knowingly fails to withhold such tax or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) Interest but no penalty will be assessed where an extension has been granted by the Commissioner and the final tax paid within the period as extended.

(h) In every situation described in this section the burden of proof shall rest on the taxpayer who may appeal the decision of the Commissioner to the Board of Review. (Ord. 1986-73. Passed 10-I-86.)

181.14. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

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

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

(c) Additional amounts of less than one dollar (\$1.00) shall not be collected or refunded. 1964-122. Passed 12-30-64.)

181.15. PROHIBITIONS.

(a) Any person who:

- (1) Fails, neglects or refuses to make any return or declaration required by this chapter; or
- (2) Makes any incomplete, false or fraudulent return; or
- (3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fails, neglects or refuses to withhold the tax from his or her employees or remit such withholdings to the Commissioner; or
- (5) Refuses to permit the Commissioner or any duly authorized agent or employee to examine his or her books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer; or
- (6) Fails to appear before the Commissioner and to produce his or her books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Commissioner; or
- (7) Refuses to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer; or
- (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Commissioner authorized hereby; or
- (9) Gives to an employer false information as to his or her true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the City tax withheld, or knowingly gives the Commissioner false information; or
- (11) Evades or attempts to evade in any manner the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; shall be punished as provided in Section 181.99(b).

(b) All prosecutions under this section shall be commenced within three years from the time of the offense complained of, except that in the case of failure to file a return or in the case of filing a false or fraudulent return, prosecution shall be commenced within six years from the date the return was due or the date the false or fraudulent return was filed or tax due whichever is later.

(c) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form, or from paying the tax. word. 1969-133. Passed 11-21-69.)

181.16. BOARD OF REVIEW.

- (a) A Board of Review of five members is hereby created consisting of the City Manager, the Finance Director, the Law Director and two Kent residents not otherwise employed by the City, who shall be appointed by Council for initial terms of one year and two years respectively, and thereafter for two-year terms. Such public members shall not be adherents to the same political party; they shall be paid such per diem compensation as Council shall fix. All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner of Taxation under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection.
- (b) Any person dissatisfied with any ruling or decision of the Commissioner of Taxation, which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within fifteen days from the announcement of such ruling or decision by the Commissioner of Taxation, and the Board of Review 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 thirty days from the date of the appeal. The Board of Review's ruling must be made within fifteen days from the date of the hearing. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction as provided by law after the announcement of such ruling or decision.
- (c) The Board of Review shall elect, from its members, a chairperson, a vice-chairperson and a secretary. A majority of the members shall constitute a quorum. Any member other than a public member may appoint a deputy to act for him or her at meetings of the Board. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions. All hearings upon appeal by the Board shall be conducted privately, unless a public hearing is requested by the taxpayer, and the provisions of Section 181.12 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review on appeal. word. 1964-122. Passed 12-30-64.)

181.17. ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be paid into the Income Tax Fund and applied to the following purposes:

- (a) Administration. Such part thereof as shall be necessary to defray all costs of collecting the tax levied by this chapter and the cost of administering and enforcing the provisions hereof shall first be allocated to the Income Tax Administration Fund.

- (b) Other Purposes. Subject to the limitations prescribed in the Charter of the City, namely, that no more than seventy-five percent (75%) of the proceeds of the City Income Tax, after payment of the expenses of collection and enforcement, shall be spent for any purpose other than a capital improvement, the net proceeds after cost of administration, enforcement, credits, and refunds shall be applied to the following separate accounts to be kept by the Finance Director for capital improvements and for the General Fund operation of the City, as herein designated:

- (1) The first one-fourth of such net proceeds to fire and emergency medical service operations and the purchase and/or maintenance of equipment and/or facilities.
- (2) The second one-fourth of such net proceeds to police, fire and emergency medical service operations and the purchase and/or maintenance of equipment and/or facilities; and the remaining one-half to:
- (3) To real estate acquisition and expansion. "Real estate expansion" means expansion and remodeling of any real estate, including buildings thereon to which the City has a title in fee simple or a leasehold interest of not less than twenty-five years;
- (4) To construction or relocation of any bridges or contributions to any proper governmental body for the construction, relocation or repair of any bridges or bridge routes within the City;
- (5) To sanitary sewer systems construction and installation of trunk lines and interceptor systems and the collecting sanitary sewer lines;
- (6) To street construction, installation, widening, resurfacing hard finish streets, relocating and restoring curbs, gutters and sidewalks with all accessories within the City, including contributions to any proper governmental body for such purposes within the City;
- (7) To storm sewer construction, trunk line construction, installation and expanding facilities;
- (8) To Safety Department purchase of Fire Department equipment, and Police Department equipment and expansion of facilities;
- (9) To the purchase of any capital equipment;
- (10) To water work system, construction and installation of trunk lines and water distribution lines, land acquisition and well field development; and
- (11) To the General Fund.

(Ord. 1984-7. Passed 2-1-84.)

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181.18. RECIPROCITY.

- (a) Where a resident of the City is subject to a municipal income tax in another municipality he or she shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.
- (b) Every individual taxpayer who resides in the City of Kent but receives net profits, salaries, wages, commissions, other personal service compensation or a distributive share of net profits from a resident or nonresident unincorporated business entity of which he or she is a partner or owner, for work done, or services performed or rendered outside the City of Kent, if it is made to appear that he or she or such business entity has paid a municipal income tax on or with respect to the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter in the amount so paid by him or her, in his or her behalf or by such business entity, to such other municipality. In no event, however, shall any such municipal income tax, to the extent paid to another municipality and allowed as a credit hereunder, be deductible in computing the net profit of such taxpayer or such business entity. In addition, such credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.

- (c) A claim for refund or credit under this section shall be made in such manner as the Commissioner may, by regulation, provide. (Ord. 1964-122. Passed 12-30-64.)

181.19. EFFECTIVE PERIOD; COLLECTION OF TAX AFTER TERMINATION.

- (a) Such tax shall be levied, collected and paid with respect to the salaries, wages, commission and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after April 1, 1965, until repealed in accordance with law. (Ord. 1969-133. Passed 11-21-69.)
- (b) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid, and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.14 and 181.15, except as otherwise provided in this chapter.
- (c) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in sections 183.07 to 183.09 as though the same were continuing. (Ord. 1964-122. Passed 12-30-64.)

181.20. SEVERABILITY.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or other part thereof not been included herein. (Ord. 1964-122. Passed 12-30-64.)

181.21 JOB CREATION INCOME TAX CREDIT PROGRAM

- A. The City Manager or his/her designee is hereby authorized to administer the program and to take all necessary and appropriate actions to achieve its objectives.

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B. Criteria for Participation: The following are general guidelines for considering applications to participate in a Jobs Creation Tax Credit Program. (The City may consider applications that do not meet all of the below referenced criteria on a case-by-case basis, if extenuating circumstances exist and the spirit of the program is satisfied.)

- A. Any office or manufacturing firm which commits to the creation of at least 50 new full-time or full-time equivalent jobs in the City of Kent may be eligible for the job creation tax credit. Firms new to the City and current businesses that are expanding are eligible to participate.
- B. Each participant shall commit to establish, within three years, a minimum of 50 new jobs in the City of Kent. "New jobs" do not include transfer from affiliated companies within Kent. Each participant must commit to retaining the current number of jobs and to maintaining current levels of payroll. The jobs creation tax credit does not apply to wage and salary increases of existing jobs.
- C. Each participant shall concurrently secure state tax credit pursuant to the job creation agreement with the State of Ohio as authorized by Ohio Revised Code Section 122.12. (The requirement in this section is mandatory).
- D. Each participant shall document that receiving the City income tax credit is a major factor in the taxpayer's decision to go forward with the job creation program.
- E. The average wage of new jobs should be above \$8.25 per hour.
- F. The availability of this income tax credit program shall expire on December 31, 2000 unless renewed by action of the Kent City Council.
- G. Tax credits are not available for those jobs filled by non-residents of Kent, unless tax revenues are collected, and not refunded, for those employees of the participant who do not live in the City of Kent.
- H. The participant shall comply with all applicable Municipal Code provisions.

B. Income Tax Credits: For those participants who meet the criteria established in §181.21 (b), the following apply:

- A. Refundable income tax credits shall be established by a written job creation agreement with each participant, each separately authorized by Municipal ordinance.
- B. The maximum job creation tax credit will be 24% of the municipal income tax withheld on the qualifying new jobs; with a maximum job creation tax credit of 10% of the municipal income tax withheld on qualifying new jobs if the participant also has an accompanying property tax abatement. This is a refundable credit against the company's Kent profit tax or an individual's income tax.
- C. The tax credit shall only apply to income taxes actually collected from the qualifying new jobs.
- D. The maximum term of credit granted under §181.21 shall be five years, but no longer than the period allowed under the State of Ohio Tax Credit Agreement with the participant.
- E. Failure to comply with the terms and conditions of the jobs creation income Tax Credit Agreement may result in the loss of subsequent credit for the duration of the agreement by action of the City Council.

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B. Application Confidentiality

A. Financial statements and other information (including, but not limited to tax returns) submitted to the City of Kent or the Director of Budget and Finance by the applicant are generally not considered public records subject to Section 149.43 of the Ohio Revised Code. The City Manager or Director of Budget and Finance may, however, make use of the information received including but not limited to the following, for the purpose of issuing public reports:

A. Name of the business entity;

B. Description of the project;

C. Location of the project;

D. Number of jobs created and/or retained;

E. Amount of fixed-asset investment in the project;

F. Percent and terms of the tax credit, dollar value of the tax credit, years the company wants the tax credit to begin and end; and the

G. Business entity's contact person, office address, and telephone number.

H. The City Manager or the Director of Budget and Finance may also make use of the statements and other information in connection with court proceedings concerning the Tax Credit Agreement.

(Ord. 2000-18. Passed 3-1-00)

181.99. PENALTY.

(a) Whoever violates Section 181.12(d) is guilty of a misdemeanor of the first degree as defined in Section 501.99. Each disclosure shall constitute a separate offense. In addition to the above penalty any employee of the City who violates the provisions of Section 181.12(d) relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(b) Whoever violates any provision of Section 181.15(a) is guilty of a misdemeanor of the first degree as defined in Section 501.99 for each offense.