P / C
CA 11/17/15
1st R 12/1/15
2nd R 12/15/15
3rd R
B/C

CITY OF BROOK PARK, OHIO

ORDINANCE NO: 9984-2015

INTRODUCED BY: MAYOR COYNE

AN ORDINANCE
ENACTING PART EIGHTEEN OF THE
BROOK PARK CODIFIED ORDINANCES,
ENTITLED 'MUNICIPAL INCOME TAX,'
AND DECLARING AN EMERGENCY

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

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

WHEREAS, the General Assembly enacted H.B. 5 which mandates that municipal income tax codes be amended by January 1, 2016 so that any income or withholding tax is "levied in accordance with the provisions and limitations specified in Chapter 718 of the Ohio Revised Code; and

WHEREAS, in light of this state legislation certain changes are required to be made to our local income tax code in order for the City of Brook Park to collect income tax in the year 2016 and thereafter; and

WHEREAS, Council finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be "levied in accordance with the provisions and limitations specified in Chapter 718" and thus reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional; and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: That Part Eighteen of the Brook Park Codified Ordinances, entitled "Municipal Income Tax" is hereby enacted to read as follows and as set forth in Exhibit "A", which is attached hereto and incorporated herein.

SECTION 2: That this Ordinance shall take effect and be in force from and after January 1, 2016, and that this Ordinance does not repeal the existing Part Seventeen of the Codified Ordinances of the City of Brook Park for any taxable year prior to 2016, but rather amends Part Seventeen effective January 1, 2016, such that for taxable years beginning before January 1, 2016, the City of Brook Park shall continue to administer, audit, and enforce ordinances and resolutions of the City as that chapter and those ordinances and resolutions existed before January 1, 2016.

SECTION 3: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and to enact Part Eighteen of the Brook Park Codified Ordinances; therefore, this Ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED: December 15, 2015

Dennis P. Patton
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak
Clerk of Council

APPROVED: [signature]
MAYOR

12/16/2015
DATE

CERTIFICATE

Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 9984-2015 passed on the 15th day of December 20 15 by said council.

Michelle Blazak
Clerk of Council

I, Michelle Blazak, Clerk of Council for the City of Brook Park, State of Ohio, do hereby certify that there is no newspaper of general circulation in the municipality and that publication of the foregoing ordinances/resolutions was made by posting true copies at six of the most public places in said municipality as determined by Ordinance No. 4838-1975; location City Hall 6161 Engle Road, Police Station 17401 Holland Road, #1 Fire Station 5590 Smith Road, #2 Fire Station 22530 Ruple Parkway, #3 Fire Station 17401 Holland Road, Brook Park Library 6165 Engle Road, for a period of fifteen days.

commencing December 17, 2015

Michelle Blazak
MICHELLE BLAZAK
Clerk of Council

EXHIBIT A

PART EIGHTEEN

Municipal Income Tax

Effective January 1, 2016
For taxable years beginning with taxable year 2016

TITLE ONE – Municipal Income Tax

1801.00	**AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE**	
	1801.01	AUTHORITY TO LEVY TAX
	1801.02	PURPOSES OF TAX; RATE
	1801.03	ALLOCATION OF FUNDS
	1801.04	STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX
1802.00	**EFFECTIVE DATE**	
1803.00	**DEFINITIONS**	
1804.00	**INCOME SUBJECT TO TAX FOR INDIVIDUALS**	
	1804.01	DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS
	1804.02	DOMICILE
1805.00	**COLLECTION AT SOURCE**	
	1805.01	COLLECTION AT SOURCE; WITHHOLDING FROM WAGES
	1805.02	COLLECTION AT SOURCE; OCCASIONAL ENTRANT
1806.00	**INCOME SUBJECT TO NET PROFIT TAX**	
	1806.01	DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS
	1806.02	NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT
	1806.03	CONSOLIDATED FEDERAL INCOME TAX RETURN
	1806.04	TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO
	1806.05	TAX CREDITS TO FOSTER JOB RETENTION
1807.00	**DECLARATION OF ESTIMATED TAX**	
1808.00	**CREDIT FOR TAX PAID**	
	1808.01	CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY
	1808.02	REFUNDABLE CREDIT FOR QUALIFYING LOSS
	1808.03	CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT
	1808.04	CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

1809.00 **ANNUAL RETURN**
1809.01 RETURN AND PAYMENT OF TAX
1809.02 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE
1809.03 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED
1809.04 EXTENSION OF TIME TO FILE
1809.05 AMENDED RETURNS
1809.06 REFUNDS
1810.00 **PENALTY, INTEREST, FEES AND CHARGES**
1811.00 **AUDIT**
1812.00 **ROUNDING**
1813.00 **AUTHORITY AND POWERS OF THE TAX DIRECTOR**
1813.01 AUTHORITY OF TAX DIRECTOR; ADMINISTRATIVE POWERS OF THE TAX DIRECTOR
1813.02 AUTHORITY OF TAX DIRECTOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME
1813.03 AUTHORITY OF TAX DIRECTOR; RIGHT TO EXAMINE
1813.04 AUTHORITY OF TAX DIRECTOR; REQUIRING IDENTIFYING INFORMATION
1814.00 **CONFIDENTIALITY**
1815.00 **FRAUD**
1816.00 **OPINION OF THE TAX DIRECTOR**
1817.00 **ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY**
1818.00 **BOARD OF TAX REVIEW; APPEAL TO BOARD OF TAX REVIEW**
1819.00 **ACTIONS TO RECOVER; STATUTE OF LIMITATIONS**
1820.00 **ADOPTION OF RULES**
1820.01 DECLARATION OF LEGISLATIVE INTENT
1820.02 RENTAL OR LEASED PROPERTY
1821.00 **COLLECTION OF TAX AFTER TERMINATION OF CHAPTER**
1822.00 **SAVINGS CLAUSE**
1823.00 **VIOLATIONS - PENALTY**

1801.00 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

1801.01 AUTHORITY TO LEVY TAX

(A) The income tax and the withholding tax established by the City of Brook Park Codified Ordinances Part 18 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The income tax and the withholding tax established by this Part are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Chapter 718 of the Ohio Revised Code. This Part is deemed to incorporate the provisions of Chapter 718 of the Ohio Revised Code. To the extent any provision of this Part conflicts with Chapter 718 of the Ohio Revised Code, said Chapter 718's provisions will prevail.

(B) The tax is an annual tax levied on the income of every person residing, earning, or receiving income within the City of Brook Park and every entity residing, earning, or receiving net profits within the City of Brook Park. The tax shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

1801.02 PURPOSES AND IMPOSITION OF TAX; RATE

(A) The purpose of this Part is to provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Brook Park. (Ord. 4708-1974.Passed 12-3-74.)

(B) There is hereby levied, a tax on municipal taxable income, to wit - salaries, wages, commissions and other compensation and all other individual income subject to tax under Chapter 1804.00, and on net profits under Chapter 1803.00, as hereinafter provided, at the rate of two percent (2%) per annum. (Ord. 7490-1990. Approved by Voters 11-6-90.)

1801.03 ALLOCATION OF FUNDS COLLECTED

The funds collected under the provisions of this Part shall be disbursed in the following manner:
(A) Such part thereof as is necessary to defray all costs of collecting, enforcing and administering the tax levied by this Part shall be paid first.

(B) The balance remaining after providing for the expenses referred to in Division (A) hereof shall be appropriated for the following purposes:

(1) Eighty percent (80%) to the General Fund;
(2) Twenty percent (20%) to the Capital Improvement Fund.

(Ord. 8390-1997. Passed 12-17-97. Ord. 9571-2009. Passed 4-7-09; Ord. 9701-2011. Passed 3-29-11;Ord.9819-2013. Passed 2-19-13.)

1801.04 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

(A) Whereas significant and wide-ranging amendments to Ohio Revised Code 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, municipal income tax Ordinance 9984-2015, effective January 1, 2016, comprehensively amends Part Seventeen in accordance with the provisions of Ohio Revised Code 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

1802.00 EFFECTIVE DATE

(A) Ordinance 9984-2015, effective January 1, 2016, applies to municipal taxable years beginning on or after January 1, 2016. All provisions of this Part 18 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 9984-2015 does not repeal the existing Chapters of Part Seventeen for any taxable year prior to 2016, but rather enacts Part Eighteen effective January 1, 2016 and applicable to tax year 2016 and all tax years thereafter. For municipal taxable years beginning before January 1, 2016, the City of Brook Park shall continue to administer, audit, and enforce the income tax under Chapter 718 of the Ohio Revised Code and ordinances of the City of Brook Park as that Chapter and those ordinances and resolutions existed before January 1, 2016.

1803.00 DEFINITIONS

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

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

As used in this chapter:

(1) "ADJUSTED FEDERAL TAXABLE INCOME," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under Division 23(D) of this Chapter, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five per cent of intangible income deducted under Division (1)(A) of this Chapter, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) (i) Except as provided in Division (1)(D)(ii) of this Chapter, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Sections 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this Chapter does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

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

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

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

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

(ii) No person shall use the deduction allowed by Division (1)(H) of this Chapter to offset qualifying wages.

(iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by Division (1)(H)(i) of this Chapter.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by Division (1)(H)(i) of this Chapter.

(iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to Division (1)(H) of this Chapter.

(v) Nothing in Division (1)(H)(iii)(a) of this Chapter precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of Division (1)(H)(iii)(a) of this Chapter. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of Division (1)(H)(iii)(a) of this Chapter is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020,

2021, or 2022, the limitation described in Division (1)(H)(iii)(a) of this Chapter shall apply to the amount carried forward.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with Chapter 1806.03 Division (E)(3)(b).

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with Chapter 1806.03 Division (E)(3)(b).

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in Division (47)(B) of this Chapter, is not a publicly traded partnership that has made the election described in Division (23)(D) of this Chapter, and is not an individual, the taxpayer is required to compute adjusted federal taxable income under this Chapter as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member are not allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in Division (1) of this Chapter permits a taxpayer to add or deduct any amount more than once permits a taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

(2) **(A)** **"ASSESSMENT"** means any of the following:

(i) A written finding by the Tax Director that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

(ii) A full or partial denial of a refund request issued under Chapter 1809.06 (B)(2);

(iii) A Tax Director's denial of a taxpayer's request for use of an alternative apportionment method, issued under Chapter 1806.02(B)(2); or

(iv) A Tax Director's requirement for a taxpayer to use an alternative apportionment method, issued under Chapter 1806.02(B)(3).

(v) For purposes of Division (2)(A)(i), (ii), (iii) and (iv) of this Chapter, an assessment will commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Chapter 1818.00, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Chapter 1809.06 (B)(3), a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, the Tax Director's request for additional information, a notification to the taxpayer of mathematical errors, or the Tax Director's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this Chapter.

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

(4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".

(5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"EMPLOYER"** means a person that is an employer for federal tax purposes.

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

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

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

(10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. A taxpayer, even if having more than one residence, may only have one domicile.

(11) "**EXEMPT INCOME**" means all of the following:

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

(B) Intangible Income;

(C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in Division (11)(C) of this Chapter, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

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

(E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by the City of Brook Park. The City of Brook Park may not require the payer of such compensation to withhold any tax from that compensation.

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

(G) Alimony and child support received;

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

(I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this Chapter does not apply for purposes of Chapter 5745 of the Ohio Revised Code.

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

(K) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code;

(L) Employee compensation that is not qualifying wages as defined in Division (34) of this Chapter;

(M) Income the taxation of which is prohibited by the constitution or laws of the United States. Any item of income that is exempt income of a pass-through entity under Division (11) of this Chapter is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(N) Income that the constitution or laws of the United State prohibit from being taxed.

(O) All of the municipal taxable income earned by individuals before the year in which that person turned eighteen years of age.

(P) (i) Except as provided in Divisions (11)(P)(ii), (iii), and (iv) of this Chapter, qualifying wages described in Division (B)(1) or (E) of Chapter 1805.02 to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

(ii) The exemption provided in Division (11)(P)(i) of this Chapter does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in Division (11)(P)(i) of this Chapter does not apply to qualifying wages that an employer elects to withhold under Division (D)(2) of Chapter 1805.02.

(iv) The exemption provided in Division (11)(P)(i) of this Chapter does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in Division (B)(1) of Chapter 1805.02, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in Division (E) of Chapter 1805.02 , the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in Division (11)(P)(iv)(a) of this Chapter on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in Division (11)(Q)(ii) or (iii) of this Chapter, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City of Brook Park on not more than twenty days in a taxable year.

(ii) The exemption provided in Division (11)(Q)(i) of this Chapter does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the City of Brook Park.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional

entertainer, or public figure. For purposes of Division (11)(Q)(ii)(b) of this Chapter, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Chapter 1805.02.

(iii) Compensation to which Division (11)(Q) of this Chapter applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of Division (11)(Q) of this Chapter, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

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

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

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

(14) "**INCOME**" means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including but not limited to bonuses, incentive and profit-sharing payments, vacation pay, payments received under a wage continuation plan from an employer or third party during the period of disability or sickness, and contributions made by or on behalf of an employee to a tax deferred plan such as a 401k, 403b, IRA, Keogh, SEP or other similar plans, and the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in Division (23)(D) of this Chapter.

(ii) For the purposes of Division (14)(A)(i) of this Chapter:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to Division (14)(A)(iv) of this Chapter;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident must be calculated without regard to any net operating loss that is carried forward

by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this Chapter does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the City of Brook Park as provided in Division 11(N) or Division 14(E) of this Chapter.

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

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

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Chapter 1808.01.

(E) For residents, an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733 of the Ohio Revised Code, and the tax shall apply to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation. (Ord.9047-2003 passed 12/18/03.)

(15) "INTANGIBLE INCOME" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property other than stock options including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

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

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

(18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Chapter 1818.00.

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

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Chapter 1806.02, and further reduced by any pre-2017 net operating loss carryforward available to the person for the City of Brook Park.

(ii) (a) For an individual who is a resident of the City of Brook Park, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in Division (20)(B) of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City of Brook Park.

(iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the Municipality under Chapter 1806.02, then reduced as provided in Division (20)(B) of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in Division (20)(A)(ii)(a) or (iii) of this Chapter, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** means the City of Brook Park.

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

(23) (A) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.

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

(C) For the purposes of this Part, and notwithstanding Division (23)(A) of this Chapter, net profit of a disregarded entity shall not be taxable as against that

disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

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

(ii) For the purposes of this Part, and not withstanding any other provision of this Part, the net profit of a publicly traded partnership that makes the election described in Division (23)(D) of this Chapter shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this Chapter.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under Division (D)(iii) of this Chapter. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but Division (D) of this Chapter applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) "NONRESIDENT" means an individual that is not a resident of the Municipality.

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

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

(27) "PASS-THROUGH ENTITY" means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any

other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

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

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

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

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

(32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

(B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"EMPLOYEE"** means an individual who is an employee for federal income tax purposes.

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

(A) Deduct the following amounts:

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

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

(iii) Intentionally left blank.

(iv) Intentionally left blank.

(B) Add the following amounts:

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

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock

option, or the sale, exchange, or other disposition of stock purchased under a stock option and the municipal corporation has not exempted the amount from withholding and tax adopted before January 1, 2016. Division (34)(B)(ii) of this Chapter applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this Chapter applies only to employee contributions and employee deferrals.

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

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

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

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

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

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either Division (34)(B) of this Chapter or Section 718.03 of the Ohio Revised Code, as that Section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(35) **"RELATED ENTITY"** means any of the following:

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

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

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under Division (35)(D) of this Chapter, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;

(D) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in Divisions (35)(A) to (C) of this Chapter have been met.

(36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution

of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this Division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in Section 1563(e) of the Internal Revenue Code.

(37) "RESIDENT" means an individual who is domiciled in the Municipality as determined under Chapter 1804.02.

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

(39) "SCHEDULE C" means Internal Revenue Service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) "SCHEDULE E" means Internal Revenue Service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "SCHEDULE F" means Internal Revenue Service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

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

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

(44) "TAX DIRECTOR" means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this Part, and also includes any person retained by the Municipality to administer taxes levied by the City, but only if such person is not compensated in whole or in part on a contingency basis;

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

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

(47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by the City in accordance with this Part. "Taxpayer" does not include a grantor trust or, except as provided in Division (47)(B)(i) of this Chapter, a disregarded entity.

(B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did

not file for its taxable year ending in 2003, if all of the following conditions are met:

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

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

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

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

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

(ii) For purposes of Division (47)(B)(i)(e) of this Chapter, the Municipality was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

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

(49) "THE MUNICIPALITY" OR "THE CITY" means the City of Brook Park for all purposes in this Part.

1804.00 INCOME SUBJECT TO TAX FOR INDIVIDUALS

1804.01 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in Division (20)(B) of Chapter 1803.00, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Chapter 1803.00 (14).

(i) "Qualifying Wages" is defined in Chapter 1803.00(34).

(ii) "Net profit" is included in "income", and is defined in Chapter 1803.00 (23). The net operating loss carryforward shall be calculated and deducted in the same manner as provided in Division (1)(H) of Chapter 1803.00. Treatment of net profits

received by an individual taxpayer from rental real estate is provided in Chapter 1806.02(E).

(iii) Chapter 1803.00(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in Division (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Chapter 1803.00(27).

(b) "Exempt Income" is defined in Chapter 1803.00 (11).

(c) Allowable employee business expense deduction is described in (20)(B) of Chapter 1803.00, and is subject to the limitations provided in that Chapter.

(d) "Pre-2017 Net Operating Loss Carryforward" is defined in Chapter 1803.00 (32).

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

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Chapter 1806.02, reduced by allowable employee business expense deduction as found in (20)(B) of Chapter 1803.00, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Chapter 1803.00(14).

(i) "Qualifying Wages" is defined in Chapter 1803.00(34).

(ii) "Net profit" is included in "income", and is defined in Chapter 1803.00(23). This Chapter also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in Division (1)(H) of Chapter 1803.00. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Chapter 1803.00(27).

(b) "Exempt Income" is defined in Chapter 1803.00(11).

(c) "Apportioned or sitused to the Municipality as provided in Chapter 1806.02" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Chapter 1806.02(E).

(d) "Allowable employee business expense deduction" as described in (20)(B) of Chapter 1803.00, is subject to the limitations provided in that Chapter. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.

(e) "Pre-2017 Net Operating Loss Carryforward" is defined in Chapter 1803.00(32).

1804.02 DOMICILE

(A) As used in this Chapter:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return. A taxpayer, even if having more than one residence, may only have one domicile.

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

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

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

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

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

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

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

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

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

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

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

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

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.

1805.00 COLLECTION AT SOURCE

1805.01 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality is required to withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Chapter 1805.02 or Division (D) or (F) of this Chapter. An employer, agent of an employer, or other payer is required to deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

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

(B) (1) An employer, agent of an employer, or other payer is required to remit to the Tax Director of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Director to accompany such payment, according to the following schedule:

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

(b) Taxes required to be deducted and withheld are required to be remitted monthly to the Tax Director if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the Municipality in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under Division (B)(1)(b) of this Chapter shall be made so that the payment is received by the Tax Director not later than fifteen days after the last day of each month.

(c) An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Director of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this Division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this Chapter. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Director. A return filed by an employer, agent, or other payer under this Division of this Chapter will be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this Part is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.

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

(E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this

Part or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to the Municipality's income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

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

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Director listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Director.

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

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

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

1805.02 COLLECTION AT SOURCE; OCCASIONAL ENTRANT

(A) The following terms as used in this Chapter:

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

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

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

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

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

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

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

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

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

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

(a) The employee's principal place of work is located in the Municipality.

(b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

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

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

(c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in

Chapter 1805.01.

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

(2) For the purposes of Division (B)(1) of this Chapter, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(a) Traveling to the location at which the employee will first perform services for the employer for the day;

(b) Traveling from a location at which the employee was performing services for the employer to any other location;

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

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

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

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

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

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

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

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in the municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the

municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Chapter 1803.00. To determine whether an employer qualifies as a small employer for a taxable year, the Tax Director may require the employer to provide the Tax Director with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this Chapter shall not apply to the extent that the Tax Director and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Chapter 1805.01.

1806.00 INCOME SUBJECT TO NET PROFIT TAX

1806.01 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS

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

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

(1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(i) "Net Profit" for a person other than an individual is defined in Chapter 1803.00(23).

(ii) "Adjusted Federal Taxable Income" is defined in Chapter 1803.00(1).

(2) "Exempt Income" is defined in Chapter 1803.00(11).

(3) "Apportionment" means the apportionment as determined by Chapter 1806.02.

(4) "Pre-2017 Net Operating Loss Carryforward" is defined in Chapter 1803.00 (32).

1806.02 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT

This Chapter applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

(A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include

property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not-required to be withheld under Chapter 1805.02;

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

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

(a) Separate accounting;

(b) The exclusion of one or more of the factors;

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

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Director denies the request in an assessment issued within the period prescribed by Division (A) Chapter 1819.00.

(3) The Tax Director may require a taxpayer to use an alternative apportionment method as described in Division (B)(1) of this Chapter only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Chapter 1819.00.

(4) Nothing in division (B) of this Chapter nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Director or otherwise agreed upon by both the Tax Director and taxpayer before January 1, 2016.

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

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

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(c) A vendor, customer, client, or patient of a person described in Division (C)(1)(b) of this Chapter, or a related member of such a vendor, customer, client, or patient.

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

(3) Any other location, if the Tax Director determines that the employer directed the employee to perform the services at the other location in lieu of a location described in Division (C)(1) or (2) of this Chapter solely in order to avoid or reduce the employer's

municipal income tax liability. If the Tax Director makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Director's determination was unreasonable.

(D) For the purposes of Division (A)(3) of this Chapter, receipts from sales and rentals made and services performed shall be sitused to the municipality as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this Division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

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

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

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

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

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

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

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

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual is subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.
A municipal corporation will allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused in this Division to the municipal corporation in which the property is located.

(F) (1) Except as provided in Division (F)(2) of this Chapter, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate are sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. Such an individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Chapter 1808.01.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that

municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to the Municipality any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation. This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the Municipality under this Chapter.

(H) When calculating the ratios described in Division (A) of this Chapter for the purposes of that Division or Division (B) of this Chapter, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

1806.03 CONSOLIDATED FEDERAL INCOME TAX RETURN

(A) As used in this Chapter:

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

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

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

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

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

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

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

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

(c) A taxpayer receives permission from the Tax Director. The Tax Director will approve such a request for good cause shown.

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

(3) An election made under Division (B)(1) or (2) of this Chapter is binding on all

members of the affiliated group of corporations subject to a municipal income tax.

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

(D) A taxpayer is required to prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E) (1) Except as otherwise provided in Divisions (E)(2), (3), and (4) of this Chapter, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Chapter 1803.00(1), by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that Division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under Division (1) of 1803.00 to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Chapter 1806.02, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Chapter 1806.02, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

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

(a) The corporation filing the consolidated municipal income tax return must exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Chapter 1806.02, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

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

(F) Corporations filing a consolidated municipal income tax return must make the computations required under Chapter 1806.02 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that Chapter and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that Chapter.

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

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

1806.04 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this Chapter, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

1806.05 TAX CREDITS TO FOSTER JOB RETENTION

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this Chapter, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

1807.00 DECLARATION OF ESTIMATED TAX

(A) As used in this Chapter:

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

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

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

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

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) A taxpayer having a taxable year of less than twelve months must make a declaration under rules prescribed by the Tax Director.

(2) Taxpayers filing joint returns must file joint declarations of estimated taxes.

(3) The declaration of estimated taxes must be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Chapter 1809.01 or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

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

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

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

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

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

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

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

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Director. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining

payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this Chapter.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return is required to be filed and any balance which may be due shall be paid with the return in accordance with Chapter 1809.01.

(a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to Division (G) of section 5747.08 of the Revised Code.

(b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

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

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Chapter 1810.00 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in Division (E) of this Chapter. The amount of the underpayment shall be determined as follows:

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

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

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

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

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

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

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

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Chapter 1809.01 for that year.

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

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

1808.00 CREDIT FOR TAX PAID

1808.01 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

(A) Where a resident of the City is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate. (Ord 4708-1974. Passed 12-3-74)

(B) Basis for credit: Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other personal service compensation, for work done or services rendered outside of the City, if it be made to appear that he has paid a municipal income tax on the same income taxable under this Part to another municipality, shall be allowed a credit against the tax imposed by this Part of the amount so paid by him, or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this Part on such income earned in such other municipalities where such tax is paid. (Ord 4708-1974. Passed 12-3-74)

(C) A claim for credit or refund under this section shall be made in such manner as the Tax Director may by regulation provide. In the event such resident fails, neglects or refuses to file an annual return or declaration on the form furnished by or obtainable from the Tax Director, he shall not be entitled to such credit or refund or shall be considered in violation of this Part for failure to file a return.

1808.02 REFUNDABLE CREDIT FOR QUALIFYING LOSS

(A) As used in this Chapter:

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

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

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in Division (A)(2)(a) of this

Chapter computed without regard to Division (A)(2)(b) of this Chapter and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

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

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

(B) (1) Except as provided in Division (D) of this Chapter, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

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

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

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

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

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

(D) The credit allowed under this Chapter is allowed only to the extent the taxpayer's qualifying loss is attributable to:

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

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

1808.03 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Chapter 1808.01.

1808.04 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Chapter 1809.06.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Chapter 1809.06, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Chapter 1809.06.

(D) Nothing in this Chapter requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Chapter 1808.01 shall prevailregarding any limitation on credit.

1809.00 ANNUAL RETURN

1809.01 RETURN AND PAYMENT OF TAX

(A) (1) An annual City municipal income tax return must be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Director will accept on behalf of all nonresident and resident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under Chapter 1805.01(C) when the nonresident or resident's individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, who turn eighteen years of age during the tax year or are older than eighteen years of age, are required to file an annual municipal

income tax return with the Municipality, regardless of income or liability.

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

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

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

(E) Spouses may file a joint return.

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

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this Chapter, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this Chapter electronically is not required to provide paper copies of any of the foregoing to the Tax Director unless the Tax Director requests such copies after the return has been filed.

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

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

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

imposed under Division (F) of this Chapter apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Director.

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

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

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

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

(2) If the Tax Director considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this Part, the Tax Director may require taxpayers to file returns and make payments otherwise than as provided in this Chapter, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom Chapter 1809.02 applies, to the extent that any provision in this Division conflicts with any provision in Chapter 1809.02, the provision in Chapter 1809.02 prevails.

(H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

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

(I) This division shall not apply to payments required to be made under division (B)(1)(b) of Chapter 1805.01.

(1) The date of the postmark on the cover of any report, claim, statement, or other document required to be filed, or any payment required to be made, to or with the Tax Director or Municipality, will be deemed the date of delivery or payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Director for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this Chapter, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Chapter 1805.01 will be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

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

(L) The Tax Director of the Municipality will accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Part, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Director, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Part and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Director will accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this Division, "worksite location" has the same meaning as in Chapter 1805.02.

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

(a) The person was required to file a tax return with the Municipal Corporation for the immediately preceding taxable year because the person performed services at a worksite location within the Municipality, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this Part. The Tax Director is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this Part.

(b) The person no longer provides services in the Municipality, and does not expect to be subject to the City's income tax for the taxable year.

The person must provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the Municipal Corporation. The affidavit also must include the following statement: "The affiant has no plans to perform any services within the Municipality, make any sales in the Municipality, or otherwise become subject to the tax levied by the Municipality during the taxable year. If the affiant does

become subject to the tax levied by the Municipality for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the Municipality, if such a registration is required by the Municipal Corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

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

1809.02 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Director for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this Part during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Director considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Director ascertains that an applicant is qualified for an extension under this Chapter, the Tax Director shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in Division (B)(3) of this Chapter, the Tax Director may prescribe such contract terms as the Tax Director considers appropriate.

(2) If the Tax Director ascertains that an applicant is qualified for an extension under this Chapter, the applicant may not be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under Division (B)(1) of this Chapter are not delinquent. The Tax Director may not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this Division denies to any person described in this Division the application of Divisions (A) and (B) of this Chapter.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code will receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any

payment of taxes required by the Municipality in accordance with this Part. The length of any extension granted under Division (C)(2)(a) of this Chapter shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this Chapter, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with Division (C)(2)(a) of this Chapter are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Director may not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Director may not include any period of extension granted under Division (C)(2)(a) of this Chapter in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which Divisions (A), (B), or (C) of this Chapter may apply to a taxpayer, the provisions of Divisions (B)(2) and (3) or (C) of this Chapter, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

1809.03 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED

(A) Any taxpayer subject to municipal income taxation on the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) This Chapter does not affect the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by the Municipality, taxpayers, or other persons does not affect the legal rights of the Municipality or taxpayers as otherwise permitted by law.

(E) This Chapter does not limit or remove the Municipality's authority to administer, audit, and enforce the provisions of its municipal income tax.

1809.04 EXTENSION OF TIME TO FILE

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

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

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

(D) An extension of time to file under this Part is not an extension of the time to pay any tax due unless the Tax Director grants an extension of that date.

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

1809.05 AMENDED RETURNS

(A) (1) A taxpayer shall file an amended return with the Tax Director in such form as the Tax Director requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this Part must be altered.

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

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

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under Division (B)(2) of this Chapter, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Chapter 1819.00 has not expired for a previously filed return.

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

(C) (1) In the case of an overpayment, a request for refund may be filed under this Division within the period prescribed by Division (A)(2) of Chapter 1819.00 for filing the amended return even if it is filed beyond the period prescribed in that Division if it

otherwise conforms to the requirements of that Division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in Division (C)(2) of this Chapter, a request filed under this Division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Chapter 1809.06. Except as set forth in Division (C)(2) of this Chapter, the request may not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

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

1809.06 REFUNDS

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

(1) Overpayments of more than ten dollars;

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

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

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

(3) If the Tax Director denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Director will notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Chapter 1818.00.

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

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

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not

legible, and the request is received within seven days of the last day for making the request.

(D) Interest will be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year will be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Division (A)(4) of Chapter 1810.00.

(E) As used in this Chapter, "withholding tax" has the same meaning as in Chapter 1810.00.

1810.00 PENALTY, INTEREST, FEES, AND CHARGES

(A) As used in this Chapter:

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

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

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

(4) "Interest rate as described in Division (A) of this Chapter" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate will apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with Division (A)(2) of this Chapter.

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

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

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

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

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

(B) (1) This Chapter applies to the following:

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

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

(2) This Chapter does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the City of Brook Park's ordinances the were effective before January 1, 2016.

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

(1) Interest shall be imposed at the rate defined as "interest rate as described in Division (A) of this Chapter", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

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

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

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

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

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

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

1811.00 AUDIT

(A) At or before the commencement of an audit, as defined in Chapter 1803.00(3), the Tax Director will provide to the taxpayer a written description of the roles of the Tax Director and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Director will inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Director is required to conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Director, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Director will prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Director. If a taxpayer has not submitted such a form, the Tax Director may accept other evidence, as the Tax Director considers appropriate, that a person is the authorized representative of a taxpayer. A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This Division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Director to comply with a provision of this Section does not excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

1812.00 ROUNDING

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

1813.00 AUTHORITY AND POWERS OF THE TAX DIRECTOR

1813.01 AUTHORITY OF TAX DIRECTOR; ADMINISTRATIVE POWERS OF THE TAX DIRECTOR

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

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

(B) Appoint agents and prescribe their powers and duties;

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

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

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

(F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Chapter 1806.02;

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

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

(I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Chapter 1805.01.

1813.02 AUTHORITY OF TAX DIRECTOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME

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

(B) The Tax Director may do either of the following if such action is in the best interests of the Municipality:

(1) Compromise a claim;

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

(C) The Tax Director's rejection of a compromise or payment plan proposed by a person with respect to a claim is not appealable.

(D) A compromise or payment plan with respect to a claim shall be binding upon and shall

operate to the benefit of only the parties to the compromise or agreement, and does not extinguish or otherwise affect the liability of any other person.

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

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

(F) The Tax Director may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Director shall preclude consideration of a payment plan.

1813.03 AUTHORITY OF TAX DIRECTOR; RIGHT TO EXAMINE

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

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

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

(D) No person issued written notice by the Tax Director compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax

returns under this Chapter shall fail to comply.

1813.04 AUTHORITY OF TAX DIRECTOR; REQUIRING IDENTIFYING INFORMATION

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

(B) (1) If the Tax Director makes a request for identifying information and the Tax Director does not receive valid identifying information within thirty days of making the request, the Tax Director may seek to impose a penalty upon the person to whom the request was directed pursuant to Chapter 1810.00, in addition to any applicable penalty described in Chapter 1823.00.

(2) If a person required by the Tax Director to provide identifying information does not notify the Tax Director of a change with respect to that information as required under Division (A) of this Chapter within thirty days after filing the next tax document requiring such identifying information, Tax Director may seek to impose a penalty pursuant to Chapter 1810.00.

(3) The penalties provided for under Divisions (B)(1) and (2) of this Chapter may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Chapter 1823.00 for a violation of Chapter 1815.00~~,~~ and any other penalties that may be imposed by the Tax Director by law.

1814.00 CONFIDENTIALITY

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by Chapter 718 of the Ohio Revised Code or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by Chapter 718 of the Ohio Revised Code or under this Part. The Tax Director or a designee thereof may furnish copies of returns filed or otherwise received under this Part and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and tax administrators of other municipal corporations.

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

1815.00 FRAUD

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by this Part or state law to be filed with the Tax Director, or shall knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement,

claim, or document, or shall knowingly change, alter, or amend, or shall knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Director.

1816.00 OPINION OF THE TAX DIRECTOR

(A) An "opinion of the Tax Director" means an opinion issued under this Chapter with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Director.

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

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

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

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

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

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

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or this Part that would substantially change the analysis and conclusion of the opinion of the Tax Director;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or this Part;

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

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

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

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

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted

material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Chapter 1815.00.

(E) If the Tax Director provides written advice under this Chapter, the opinion will include a statement that:

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

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

(F) The Tax Director may refuse to offer an opinion on any request received under this Chapter.

(G) This Chapter binds the Tax Director only with respect to opinions of the Tax Director issued on or after January 1, 2016.

(H) An opinion of the Tax Director binds that Tax Director only with respect to the taxpayer for whom the opinion was prepared. An opinion of a tax administrator of any other municipal corporation does not bind the Tax Director.

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

(J) An opinion of the Tax Director issued under this Chapter or a refusal to offer an opinion under Division (F) of this Chapter may not be appealed.

1817.00 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY

(A) (1) The Tax Director shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code. Where the Tax Director attempts service by certified mail and that service is unsuccessful, the Tax Director may serve an assessment by ordinary mail in compliance with Section 718.18 of the Ohio Revised Code, the effective date of which service shall be governed by that section of the Ohio Revised Code.

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

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

(B) (1) A person may challenge the presumption of delivery and service as set forth in this Division. A person disputing the presumption of delivery and service under this Chapter bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person

was associated at the time the Tax Director originally mailed the assessment by certified mail. For the purposes of this Chapter, a person is associated with an address at the time the Tax Director originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this Chapter, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

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

1818.00 BOARD OF TAX REVIEW; APPEAL TO BOARD OF TAX REVIEW

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

(2) The Board of Tax Review shall consist of three members.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Director or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

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

(4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Ohio Revised Code.

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

(6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

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

(8) No member of the Board of Tax Review shall receive compensation, fee, or

reimbursement of expenses for service on the board.

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

(B) Whenever a Tax Director issues an assessment, the Tax Director shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

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

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

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

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

1819.00 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS

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

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

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

(b) The time limit described in division (A)(1)(a) of this Chapter may be extended at any time if both the Tax Director and the employer, agent of the

employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in Division (C) of this Chapter.

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

(a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Chapter 1818.00. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

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

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Chapter 1809.06.

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

(2) A refund shall be issued to the appellant or the appellant's representative upon final determination of any such appeal where and to the extent the appellant is successful, in the amount of overpayment, with interest.

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

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

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

1820.00 ADOPTION OF RULES

(A) Pursuant to Section 718.30 of the Ohio Revised Code, the City of Brook Park Council has the authority, by Ordinance or Resolution, to adopt rules to administer the income tax imposed by the City of Brook Park.

(B) All rules adopted under this Chapter shall be published and posted on the internet.

1820.01 DECLARATION OF LEGISLATIVE INTENT

(A) Except as otherwise provided in Section 718 of the Ohio Revised Code the City of Brook Park retains the right to impose a tax on all income earned by residents of Brook Park to the extent allowed by the United States Constitution. Except as otherwise provided in Section 718 of the Ohio Revised Code, the City of Brook Park retains the right to impose a tax on all nonresidents, whether individuals, companies or other persons to the extent that wages and/or net profits are the result of services performed within the City of Brook Park. Nothing in this Chapter shall be construed as limiting or removing the ability of the City of Brook Park to administer, audit and enforce the provisions of this Part.

If any sentence, clause, section or part of this Part, 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 Chapter of this Part and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other chapters of this Part. It is hereby declared to be the intention of Council that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 4708-1974. Passes 12-3-74;Ord. 9055-2003, passed 12-16-2003)

1820.02 RENTAL OR LEASED PROPERTY

(A) Beginning March 1, 1996, and thereafter, all owners of rental or leased residential and nonresidential property having fifteen or more individual units, within the corporation limits of the City shall file with the Tax Director a report showing:

(1) The name, address, telephone number and social security number of each new tenant, eighteen years of age or older, who has commenced occupying any such rental or leased premises during the preceding calendar quarter; and

(2) The name and forwarding address, if known, of each former tenant, eighteen years of age or older, who has vacated such rental or leased premises during the preceding calendar quarter. Such a report shall be filed on March 31, June 30, September 30 and December 31 in each calendar year.

(B) Beginning March 1, 1996, and thereafter, all owners of rental or leased residential and nonresidential property having fewer than fifteen units within the corporation limits of the City shall file with the Tax Director a report showing the name, address, telephone number and social security number of each new tenant, eighteen years of age or older, who has commenced occupying any such rental or leased premises. Such report shall be filed within thirty days after such new tenant has commenced occupying such premises.

(C) Beginning March 1, 1996, and thereafter, all owners of rental or leased residential and nonresidential property having fewer than fifteen units within the corporation limits of the City shall file with the Tax Director a report showing the name and forwarding address, if known, of each former tenant, eighteen years of age or older, who has vacated any such rental or leased premises. Such report shall be filed within thirty days after such former tenant has vacated such premises

(D) For purposes of this Chapter "tenant" means:

(1) A person 18 years of age or older known to be occupying rental or leased property;

(2) If there is a written lease or rental agreement, the person who signed the written lease or rental agreement with the owner; or

(3) If there is an oral lease or rental agreement, the person with whom the owner entered into the oral lease or rental agreement.

(Ord 8125-1995.Passed 9-17-95;Ord 9536-2008. Passed 12-16-08.)

1821.00 COLLECTION AFTER TERMINATION OF PART

(A) This Part shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this Part are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this Part have been fully terminated, subject to the limitations contained in Chapter 1819.00.

(B) Annual returns due for all or any part of the last effective year of this Part remain due on the date provided in Chapter 1809.01 Part as though the same were continuing.

1822.00 SAVINGS CLAUSE

If any sentence, clause, section or Chapter of this Part, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or Chapter of this Part so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other chapters of this Part. It is hereby declared to be the intention of the Municipality that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or chapter thereof not been included in this Part.

1823.00 VIOLATIONS; PENALTY

(A) Except as provided in Division (B) of this Chapter, whoever violates Chapter 1815.00, Division (A) of Chapter 1814.00, or Chapter 1805.01 by failing to remit municipal income taxes deducted and withheld from an employee, is guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, if the individual is an employee of the Municipality, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 is guilty of a violation of Section 718.99(B) of the Ohio Revised Code, and may be liable for punishment as provided therein. In addition, the violation may be punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of Division (A) of Chapter 1814.00 constitutes a separate offense.

(D) Whoever violates any provision of this Part for which violation no penalty is otherwise

provided, is guilty of a misdemeanor of the first degree for each offense. By way of an illustrative enumeration, violations of this Part shall include but not be limited to the following acts, conduct, and/or omissions:

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

(2) Knowingly make any incomplete return; or

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

(4) Cause to not be remitted the municipal income tax withheld from qualifying wages of employees to the Municipality as required by Chapter 1805.01; or

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

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

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

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

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

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

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

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

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

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

(15) For purposes of this Chapter, the term "person" shall, in addition to the meaning prescribed in Chapter 1803.00, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Part.