

RULES AND REGULATIONS
ADOPTED UNDER AUTHORITY OF CHAPTER 1723
CITY OF BROOK PARK CODIFIED ORDINANCES
PART SEVENTEEN – TAXATION

PREFACE
TAXPAYER RIGHTS AND CONSIDERATIONS

The following rights and considerations apply to every taxpayer or potential taxpayer in the City of Brook Park:

- (a) **COURTESY AND CONSIDERATION** As a taxpayer or potential taxpayer, you are entitled to courteous, considerate and fair treatment from the City of Brook Park Tax Department employees at all times. If you ever feel that you are not being offered such treatment, you should inform the Director of the Department of Taxation. If your complaint is about the Director, you should contact the Mayor. Whenever time and personpower permit, the Department of Taxation will be happy to prepare your City return at the service window or to answer your questions regarding taxable income. However, in times of great demand, we may require you to file at the window and will inform you of the results at a later time. Please remember that all returns are reviewed and audited before finally being accepted. At times this audit will uncover differences from what you may have been informed at the window.
- (b) **PAYMENT OF ONLY THE REQUIRED TAX:** You are only liable for the correct amount of tax which is due and payable. Equal standards of payment are required to be consistently and fairly applied to all taxpayers.
- (c) **PENALTIES AND INTEREST:** The City of Brook Park ordinance covering taxation requires that penalties and interest be assessed on late filings and late payments. You are responsible for payment of these assessments even if no tax or no additional tax is due.
- (d) **RETURNS MAY BE QUESTIONED:** The Tax Department reviews all tax returns for both completeness and for correctness. If we inquire about your return or select it for further examination, it does not suggest that you are dishonest or that something is wrong. It only indicates that something needs to be clarified. An examination may or may not result in more tax being assessed. Examinations normally are conducted through the mail. In certain cases, when requested information has not been sent or is insufficient, a personal interview may be scheduled. We will try and schedule your personal interview at a time that is convenient for you. However, if the parties are unable to agree, the City of Brook Park, Department of Taxation has the authority to make the final determination of how, when and where the examination will take place.
- (e) **EXPLANATION OF ADDITIONAL TAX LIABILITY:** If we suggest any changes to your return and/or tax liability, we shall explain the reasons for the changes or the levy of additional tax. Whenever you owe additional money, we will send you a bill stating the reason for the invoice as well as any amounts you may owe, including penalty and interest , when applicable. You have the right to have your bill adjusted if it is incorrect. Please let the Tax Department know immediately if you believe that you have been sent an incorrect bill or if you do not understand the explanation.
- (f) **REPRESENTATION:** Throughout your dealings with the Tax Department and its employees, you can represent yourself or your tax preparer or attorney may represent

you. Most differences can be settled by presenting additional facts or information. It is not required to have tax preparer or attorney appear for you. However, if at any time during a tax review you want to consult an attorney or your tax preparer or any other person you wish to represent you, we will stop and reschedule the interview. In the case of an administrative Summons to our Mayor's Court, we cannot suspend the hearing but may issue a trial date continuance for appropriate reasons.

(g) **APPEAL OF EXAMINATION FINDINGS:** You have the right to appeal any levy of additional tax or assessments and any review or examination findings. Administrative reviews are conducted by the Department of Taxation if notification is sent to the Department within 30 days of issuing an opinion or levy. In the event that the Director of the Department of Taxation makes a final administrative ruling, you have the right to appeal to the Board of Review. You will be notified of this final administrative ruling by mail and will have thirty days from the letter date to direct a written objection either personally or by registered mail to the Director of Taxation stating why you feel the ruling is either unlawful or inaccurate. The Board of Review will schedule a confidential hearing and notify you of its decision within fifteen days after making its decision. If the matter cannot be settled to your satisfaction by the Board of Review, you may pursue your case through a Court of competent jurisdiction.

(h) **PAYMENT ARRANGEMENTS:** You are required to make every effort to pay your tax and assessments in full when they are due. If you can't, you should pay as much as you can and contact the Department of Taxation immediately to attempt to arrange a payment plan. The Director of Taxation has the right to approve or disapprove payment plans based on financial criteria and to determine the method and the term of payment. You may be asked to provide a complete or partial financial statement to determine your ability to pay the amount due. You will be provided with a full disclosure statement by the Department of Taxation if a payment plan is allowed.

TAXPAYER OBLIGATIONS

The following obligations and considerations apply to every taxpayer or potential taxpayer in the City of Brook Park:

(a) **DUTY TO REGISTER:** Within thirty days of occupancy or the start of business, every taxpayer or potential taxpayer has an obligation to register with the Department of Taxation and to obtain a tax identification number or numbers. The taxpayer should also notify the Tax Department of fundamental changes in status such as changes in city of employment or household moves which will effect tax obligations.

(b) **COMPLETE AND TIMELY RETURNS:** Taxpayers have an obligation to file either a complete return or an extension request by the close of business on the original due date. Taxpayers must include copies of all Federal Schedules which may effect their tax obligations. Taxpayers may obtain the necessary forms from the Department of Taxation or from the website: www.cityofbrookpark.com. Generic forms containing all the required information may be substituted for annual filings and declaration payments.

(c) **ESTMATED TAX PAYMENTS:** Taxpayers owing \$40.00 or more dollars in the current year are presumed to be estimated taxpayers in the subsequent year unless the return clearly indicates otherwise. Taxpayers owing \$40.00 are automatically classified as

estimated taxpayers and are required to make quarterly payments. In the event a taxpayer does not make a subsequent year estimate, the Department of Taxation has the authority to provide an estimate. It is the taxpayer's responsibility to revise the declaration of estimated tax due when circumstances change.

(d) PAYMENT OF TAX: Tax is due and payable when filed, or when billed. Assessments are due and payable when billed. Under certain conditions the Director can approve payment arrangements, but additional assessments will be made for the late payments. After multiple administrative billings, you may be subject to legal collection procedures and may incur court costs.

ARTICLE I

Section of the ordinance deals only with the purposes for which the tax collected will be used.

ARTICLE II DEFINITIONS

As used in these rules and regulations, the following words shall have the meaning ascribed to them in this article, except as and if the context clearly indicates or requires a different meaning.

DIRECTOR OF THE DEPARTMENT OF TAXATION means the individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance, regardless of the particular title assigned such individual.

ASSOCIATION means a partnership, limited partnership, limited liability company, Chapter S corporation as defined in Federal Tax Code, subchapter S of Chapter 1 of Subtitle A, or any other form of unincorporated enterprise, owned by one or more persons.

The **BOARD** means the Board of Review provided for by Chapter 1725 of the ordinance.

BUSINESS means an enterprise, cooperative activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit whether by an individual, partnership, association, corporation or any other entity, including, but not limited to the renting or leasing of property, real, personal or mixed. The ordinary administration of a decedent's estate by the executor or administrator, and the mere custody, supervision and management of trust property under passive trust, whether intervivos or testamentary, unaccompanied by the actual operation of a business as herein defined shall not be construed as the operation of a business.

BUSINESS ALLOCATION as used in these regulations, means the portion of net profits to be allocated to Brook Park as having been made in Brook Park, either under alternate accounting method, or under the three factor formula of property, payroll and sales, provided for in Chapter 1705 of the ordinance.

CITY means the City of Brook Park, Ohio.

CORPORATION means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency, but not a Chapter S corporation as defined in the Federal Tax Code, subchapter S of Chapter 1 of Subtitle A.

EMPLOYEE means one who works for wages, salary, commission or other types of compensation in the service of an employer. Any person upon whom an employer is required to withhold for either federal income or social security or on whose account payments are made under the Ohio Workmen's Compensation law shall prima facie be an employee.

EMPLOYER means an individual, partnership, association, corporation (including a corporation not for profit), governmental agency, board, body, bureau, department, subdivision, or unit or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis whether or not such employer is engaged in business. It does not include a person who employs only domestic help for such person's private residence.

FISCAL YEAR means an accounting period of twelve (12) months or less ending on any day other than December 31st. Only fiscal years accepted by the Internal Revenue Service for federal income tax purposes may be used for Brook Park tax purposes.

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

GROSS INCOME means all monies derived from any source whatsoever, including

A. All salaries, income, wages, commissions, and other compensation from whatever source received by residents of the City, including distributive shares of an unincorporated business entity or association against which City of Brook Park municipal tax is not already levied.

B. All salaries, income, wages, commissions, and other compensation received for work done or services performed or rendered or activities conducted in the City of Brook Park in accordance with Chapter 1705 and the regulations adopted by the Board of Review pursuant to this Title.

The portion attributable to the City of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities from sales made, work done, services performed or rendered, and business or other activities conducted in the City of

Brook Park. Such portion shall be determined as provided in Chapter 1705 and in accordance with the regulations adopted by the Board of Review pursuant to this Title.

GROSS RECEIPTS means the total revenue derived from sales, work done, or services rendered, before any deductions, exceptions or credits are claimed.

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

NET PROFITS means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this Title, Federal, State and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners and other owners and otherwise adjusted to the requirements of this Title. Net profits shall include any amount or value received, realized, or recognized in the sale or other disposition of tangible personal property or real property used in business, in excess of book value.

NONRESIDENT means an individual domiciled outside the City of Brook Park.

NONRESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity not having an office or place of business within the City of Brook Park.

OCCASIONAL ENTRANT means a non resident individual who works in the City of Brook Park for twelve (12) or fewer days within a calendar year. For purposes of this Ordinance, any portion of a day worked in the City of Brook Park shall be counted as one day worked in the City of Brook Park

THE ORDINANCE means part Seventeen – Taxation, Brook Park Codified Ordinances enacted by the Council of the City of Brook Park and any amendments and supplements thereto.

PERSONS means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in a clause prescribing or imposing a penalty, the term **PERSON** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to a corporation, the officers thereof, and in the case of any unincorporated entity or corporation not having any partner, member or officer within the City of Brook Park, any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the City of Brook Park.

PLACE OF BUSINESS means any **BONA FIDE** office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in

carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

RESIDENT means an individual domiciled in the City of Brook Park.

RESIDENT UNINCORPORATED BUSINESS ENTITY means an unincorporated business entity having an office or place of business within the City of Brook Park.

TAXABLE INCOME means wages, salaries, and other compensation paid by an employer or employers before deductions of any kind, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance and these regulations.

TAXABLE YEAR means the calendar year, or the fiscal year, used as the basis on which net profits are to be computed under the ordinance, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

TAXPAYER means an individual, association, corporation or other entity required by the ordinance to file a return and/or to pay a tax.

In all definitions and these regulations the singular shall include the plural and the masculine shall include the feminine and the neuter.

For tax periods beginning on or after January 1, 2004, the following definitions are added and/or amended:

1703.26 ADJUSTED FEDERAL TAXABLE INCOME

“Adjusted federal taxable income” means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code as adjusted to the requirements of this Title. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code 5745.03 or to the net profit from a sole proprietorship.

A Determine federal taxable income before net operating losses and special deductions as determined under the internal revenue service code and adjust as follows:

1. 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 production of income.
2. Add an amount equal to five percent (5%) of intangible income deducted under 1., above, excluding any portion of intangible income related to the sale, exchange or other disposition of property described in section 1221 of the IRS Code.
3. Add any losses allowed as a deduction in the computation of federal taxable income which directly relate to the sale, exchange or other disposition of an asset described in section 1221 or 1231 of the IRS Code.
4. Deduct any income or gain included in federal taxable income to the extent the income or gain directly relate to the sale, exchange or other disposition of an asset described in

section 1221 or 1231 of the IRS Code. This section 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.

5. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

6. Add, to the extent not otherwise included, any amount received on a sale, exchange or other disposition of IRS Code section 1245 or section 1250 tangible personal property or real property used in business to the extent of depreciation allowable after January 1, 1967, limited by the reported capital gains. The balance shall be treated as capital gains.

B. In the case of a real estate investment trust and/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 computation of federal taxable income.

C. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation except;

.1 Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member or former member shall not be allowed as a deductible expense.

.2 Amounts paid or accrued to a qualified self-employment retirement plan, amounts paid or accrued to or for health insurance and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

D. Nothing in Sections A. through C. shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing the taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

1703.27 DOMICILE

“Domicile” means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

1703.28 ELECTRONIC FUNDS TRANSFER

“Electronic funds transfer” means an online computer networking system that allows filings and payments of business and/or individual returns and reports to be made electronically.

1703-29 INTANGIBLE INCOME

“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 including but not limited to , investments, deposits, money, or credits as those terms are defined in ORC 5701, and patents, trademarks, tradenames, copyrights, 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 or other games of chance.

1703.30 JOINT ECONOMIC DEVELOPMENT DISTRICT

"Joint economic development district" means districts created under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.

1703.31 NET PROFITS

"Net Profit" means:

- A. for a taxpayer who is not an individual, the adjusted federal taxable income, adjusted to the requirements of this Title, and
- B. for a taxpayer who is an individual, the amounts, other than the amounts outlined in Chapter 1705.01(f), required to be reported on schedule C, schedule E or schedule F adjusted to the requirements of this Title.

1703.32 OTHER PAYER

"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. (The other payer is responsible for withholding on wages as described below and remitting tax due to the city of employment)

1703.33 PASS THROUGH ENTITY

"Pass through entity" means a partnership, limited liability company, S corporation as defined under subchapter S of Chapter 1 of Subtitle A of the IRS code or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

1703.34 PERSON.

"Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean both the entity and the partners or members thereof, and as applied to corporations, both the corporation and the officer(s) thereof.

1703.35 RULES AND REGULATIONS

"Rules and Regulations" means the Rules and Regulations promulgated under authority of Chapters 1723 and 1725.

1703.36 SCHEDULE C

"Schedule C" means the Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

1703.37 SCHEDULE E

“Schedule E” means the Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

1703.38 TAXABLE INCOME

“Taxable Income” means salaries, wages, commissions, compensation earned and other taxable income and/or net profits from the operation of business, pass-through entity, profession or other enterprise or activity adjusted in accordance with the requirements of this Title.

1703.39 TAXPAYER

“Taxpayer” means a person subject to a tax on income levied by a municipal corporation.

“Taxpayer” does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but “taxpayer” includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.”

1703.40 WAGES

“Wages” means “qualifying wages” as defined in ORC 718.03 including:

A. Wages as defined in section 3121(a) of the Internal Revenue Code (Medicare Wages), without regard to wage limitations adjusted as follows

- (1) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
- (2) Add any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986,
- (3) Add any amount not included 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,
- (4) Add any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code at the time of deferral
- (5) Add any amount not included in wages if the amount is an employee contribution or employee deferral described in section 401(k) or section 457 of the Internal Revenue Code, and
- (6) Add any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code.

B. “Qualifying wages include income from a disqualifying disposition of an incentive stock option as outlined in 1705.01 and 1713.02

As used in this Title, the basis for wages applies equally to salaries, wages, commissions, bonuses, incentive payments and other compensation earned and received, earned and accrued or earned and deferred after January 1, 2004.