

CHAPTER 1703
HB 95 REVISIONS
(AS AMENDED BY ORDINANCE 9046-2003, December 16, 2003)
Definitions

- 1703.01 Definitions
- 1703.02 Association.
- 1703.03 Board of Review.
- 1703.04 Business.
- 1703.05 City.
- 1703.06 Corporation
- 1703.07 Employee
- 1703.08 Employer
- 1703.09 Fiscal Year.
- 1703.10 Fundamental Change.
- 1703.11 Gross Income.
- 1703.12 Gross Receipts.
- 1703.13 Manager
- 1703.14 Net Profits
- 1703.15 Nonresident
- 1703.16 Nonresident Unincorporated Business Entity
- 1703.17 Occasional Entrant
- 1703.18 Person
- 1703.19 Place Of Business
- 1703.20 Resident
- 1703.21 Resident Unincorporated Business
- 1703.22 Taxable Income
- 1703.23 Taxable Year
- 1703.24 Tax Director
- 1703.25 Taxpayer

The following definitions are effective for tax periods starting January 1, 2004 or later

- 1703.26 Adjusted Federal Taxable Income
- 1703.27 Domicile
- 1703.28 Electronic Funds Transfer
- 1703.29 Intangible Income
- 1703.30 Joint Economic Development District
- 1703.31 Net Profits

1703.32 Other Payer
1703.33 Pass-Through Entity
1703.34 Person
1703.35 Rules and Regulations
1703.36 Schedule C
1703.37 Schedule E
1703.38 Taxable Income
1703.39 Taxpayer
1703.40 Wages

1703.01 DEFINITIONS

As used in this Title (Municipal Income Tax), the following words shall have the meaning ascribed to them in this chapter, except as and if the context clearly indicates or requires a different meaning

1703.02 ASSOCIATION.

"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.

1703.03 BOARD OF REVIEW.

"Board of Review" means the Board created by and constituted as provided in Section 1725.01 of Chapter 1725 herein.

1703.04 BUSINESS.

"Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including, but not limited to the renting or leasing of property, real, personal or mixed.

1703.05 CITY

“City” means the City of Brook Park

1703.06 CORPORATION.

"Corporation" means a corporation or joint stock association organized under the laws of the State, 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..

1703.07 EMPLOYEE

“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.

1703.08 EMPLOYER.

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

1703.09 FISCAL YEAR.

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

1703.10 FUNDAMENTAL CHANGE.

"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.

1703.11 GROSS INCOME

"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.
- C. 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.

1703.12 GROSS RECEIPTS.

"Gross receipts" means the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits claimed.

1703.13 MANAGER.

"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 this chapter.

1703.14 NET PROFITS.

"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.

1703.15 NONRESIDENT.

"Nonresident" means an individual domiciled outside the City of Brook Park.

1703.16 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Brook Park.

1703.17 OCCASIONAL ENTRANT

"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.

1703.18 PERSON.

"Person" means every natural person, partnership, fiduciary, association or corporation.. Whenever used in any clause prescribing and imposing a penalty, the term person" as applied to any unincorporated entity, shall mean both the entity and the partners or members thereof, and as applied to corporations, both the corporation and the officer(s) thereof.

1703.19 PLACE OF BUSINESS.

"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

1703.20 RESIDENT.

"Resident" means an individual domiciled in the City of Brook Park.

1703.21 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Brook Park.

1703.22 TAXABLE INCOME.

"Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Title.

1703.23 TAXABLE YEAR.

"Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this Title, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.

1703.24 TAX DIRECTOR.

"Tax Director" means the Director of the Department of Taxation of the City of Brook Park, or the person executing the duties of such Director.

1703.25 TAXPAYER.

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or entity, required hereunder to file a return or pay a tax.

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;

- a) 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.
- b) 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 this section 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 from which, whenever he is absent, he intends to return. 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, 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 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 activities 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.