

COLUMBUS CITY CODES
Chapter 361
Income Tax

Rev: 9/28/09

361.01 APPLICATION.

As used in this chapter, the following words shall have the meanings ascribed to them in this chapter, except and if the context clearly indicates or requires a different meaning. (Ord. 1516-61).

361.02 SINGULAR AND PLURAL; GENDER.

The singular shall include the plural. The masculine gender shall include the feminine and the neuter gender. (Ord. 1516-61).

361.03 ASSOCIATION.

"Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons. (Ord. 1516-61).

361.04 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, fiduciary, trust, association, corporation or any other entity. (Ord. 1516-61).

361.05 CORPORATION.

"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. (Ord. 1516-61).

361.06 EMPLOYER.

"Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, that employs one or more persons on a salary, wage, commission, or other compensation basis. (Ord. 1516-61).

361.07 EMPLOYEE.

"Employee" means one who works for wages, salary, commissions or other type of compensation in the service and under the control of an employer. (Ord. 2890-90).

361.08 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatsoever. (Ord. 1516-61).

361.09 NET PROFITS.

"Net Profits" means the net gain from the operation of a business, profession, or enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit) after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting method used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; 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 chapter. (Ord. 1790-01).

361.10 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 the parties or members thereof, and as applied to corporations, the officers thereof. (Ord. 1516-61).

361.11 RESIDENT INDIVIDUAL.

"Resident individual" means any individual who is domiciled in the City of Columbus or whose usual place of abode is in the City. (Ord. 1516-61).

361.12 NONRESIDENT INDIVIDUAL.

"Nonresident individual" means an individual who is not domiciled in the City and whose usual place of abode is outside the City. (Ord. 1516-61).

361.13 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City. (Ord. 1516-61).

361.14 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City. (Ord. 1516-61).

361.15 PLACE OF BUSINESS.

"Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance. (Ord. 1516-61).

361.16 TAXABLE INCOME.

"Taxable income" means wages, salaries, commissions and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. (Ord. 1790-01).

361.17 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 chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made. (Ord. 1516-61).

361.18 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31. (Ord. 1516-61).

361.19 IMPOSITION OF TAX.

To provide for the purposes of general municipal operations, maintenance, new equipment, and capital improvements of the City, there is hereby levied a tax at the rate of two and one-half percent (2.5%) per annum upon the following:

- (a) On all salaries, wages, commissions, and other compensation earned by residents of the City.
- (b) On all salaries, wages, commissions, and other compensation earned by nonresidents of the City for work done or services performed or rendered in the City.
- (c) Net profits:
 - (1) On the net profits earned of all unincorporated businesses, professions, or other activities conducted by residents of the City.
 - (2) On the net profits earned of all unincorporated businesses, professions, or other activities conducted in the City by nonresidents.
 - (3) For the purposes of paragraphs (c)(1) and (c)(2) above, an association shall be taxed as an entity, on the net profits of the association derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such association has its principal or any place of business located in the City, effective for all accounting periods commencing on or after January 1, 1991.
 - (4) For the purposes of paragraph (c)(1) above, a resident of the City who is a member of an association is taxed individually on that resident's entire share, whether distributed or not, of the annual net profits of the association which are not subject to entity filing under paragraph (c)(3) above, effective for all accounting periods commencing on or after January 1, 1991.
- (d) On the net profits of all corporations, estates, and trusts, derived from work done or service performed or rendered and business or other activities conducted in the City, whether or not such corporations, estates, and trusts have their principal or any place of business located in the City.
- (e) On a resident's entire share, whether distributed or not, of the net profits of a Subchapter S corporation as defined in Section 1361 of the Internal Revenue Code. If a resident is a shareholder in two or more Subchapter S corporations to be included in the same return, the resident's share of the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the

resident's share of the profits of another Subchapter S corporation for purposes of arriving at overall net profits derived from Subchapter S corporations. Credit on the tax imposed by this paragraph shall be given for tax paid on the resident's share of the net profits of a Subchapter S corporation under Sections 361.19(d) and 361.33 of this Chapter. The tax imposed under this paragraph is effective for all accounting periods commencing on or after January 1, 2001.

The tax upon all of the income specified in paragraphs (a), (b), (c), (d) (e) hereof shall remain in effect for the purpose of filing returns and collection of the tax at the rate of one (1) percent with regard to all income earned prior to January 1, 1971; at the rate of one and one-half (1.5) percent with regard to all income earned after January 1, 1971, and prior to January 1, 1983; and at the rate of two (2) percent with regard to all income earned after January 1, 1983 and prior to October 1, 2009, and at the rate of two and one-half percent (2.5%) with regard to all income earned on or after October 1, 2009. (Ord. 0674-2009).

361.20 ALLOCATION OF NET PROFITS.

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

(1) The average net book value of the real and tangible personal property owned by the taxpayer in the business or profession in the city during the taxable period to the average net book value of all of the real and tangible personal property owned by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight (8);

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or professions for services performed in the city to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed;

- (3) Gross receipts of the business or profession from sales made and service performed during the taxable period in the city to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- (b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted by the city auditor so as to produce such result.
- (c) As used in this chapter, "sales made in the city" means:
 - (1) All sales of tangible personal property which is delivered within the city regardless of where title passes if shipped or delivered from a stock of goods within the city.
 - (2) All sales of tangible personal property which is delivered within the city regardless of where title passes even though transported from a point outside the city if the taxpayer is regularly engaged through his own employees in the solicitation or promotion of sales within the city and the sales result from such solicitations or promotion;
 - (3) All sales of tangible personal property which is shipped from a place within the city to purchasers outside the city regardless of where title passes if the sale is not generated through solicitation or promotion by an employee of the taxpayer at the place where delivery is made. (Ord. 2890-90).

361.21 LEVY OF TAX.

The income tax at the rate of one and one-half (1.5) percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on or before December 31, 1982 and with respect to the net profits of the businesses, professions or other activities earned on or before December 31, 1982. The income tax at the rate of two (2.0) percent shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 1983, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1983. The income tax at the rate of two and one-half percent (2.5%) shall be levied, collected and paid with respect to the salaries, wages and commissions and other compensation earned on or after October 1, 2009 and with respect to the net profits of business, professions or other activities earned on or after October 1, 2009. Where the fiscal year of the business, profession or other activity differs from the calendar year, the tax at the rate of two (2.0) percent shall be applied to that portion of the fiscal year occurring on or before September 30, 2009 and the tax at the rate of two and one-half (2.5) percent shall be applied to that portion of the fiscal year occurring on and after October 1, 2009. (Ord. 0674-2009).

Where the fiscal year of a business, profession or other activity is other than a calendar year, in computing the tax, the profits of such taxpayer shall be determined by dividing the annual profits by twelve (12) and multiplying the quotient by the number of months of the fiscal year occurring on or before September 30, 2009, and multiplying the quotient by the number of months of the fiscal year occurring on and after October 1, 2009 and thereafter and applying the appropriate tax rate to each period. (Ord. 0674-2009).

361.22 RETURN AND PAYMENT OF TAX.

- (a) Each taxpayer who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return on or before April 15th of each year with the City Auditor on a form furnished by or obtainable from the City Auditor, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the City Auditor may require. Provided, however, that when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the 15th day of the fourth month after the close of said fiscal year or other period.

- (b) Commencing with taxable years beginning subsequent to December 31, 1981, the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation or the net profits from a resident's share in a Subchapter S corporation. However, if a taxpayer is engaged in two or more taxable unincorporated business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from unincorporated business activities. Commencing with taxable years beginning subsequent to December 31, 2000, the net loss from a resident's share of a Subchapter S corporation may not be used to offset salaries, wages, commissions or other compensation or the net profits from an unincorporated business activity. However, if a resident taxpayer is a shareholder in two or more Subchapter S corporations be included in the same return, the net loss of one Subchapter S corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits from a resident's share in Subchapter S corporations. A husband and wife, in any taxable year, may elect to file separate or joint returns.

- (c) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.
- (d) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporation may not be taken into consideration in computing net profits or the Business Allocation Percentage Formula of another.
- (e) The taxpayer making a return shall, at the time of the filing thereof, pay to the City Auditor the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of C.C. 361.24, or where any portion of said tax has been paid by the taxpayer pursuant to the provisions of C.C. 361.25, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with C.C. 361.33 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.
- (f) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided, however, there is no other tax liability and provided, further, that no amount of less than one dollar (\$1.00) will be refunded or collected.
- (g) The City Auditor shall have the authority to extend the time for filing of the annual return provided, the request of the taxpayer for extension is made in writing and received on or before the original due date of the return. The extension period requested may not exceed six (6) months. The City Auditor may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon on or before the original due date. No penalty shall be assessed, in those cases in which the return is filed and the final tax paid within the period as extended.
- (h) When the last day for filing a return falls upon a Saturday, Sunday or federal holiday, the taxpayer shall be permitted to file on or before the first business day following said Saturday, Sunday or federal holiday without penalty. (Ord. 2624-00).

361.23 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

Where an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid subject to the requirements and/or limitations contained in C.C. 361.22(f), such amended return shall be on a form obtainable on request from the City Auditor. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

Within three (3) months from the final determinations of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City

return showing income subject to the City tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

Except for a claim resulting from and filed within three (3) months of the final determination of a taxpayer's Federal tax liability as set forth in the preceding paragraph, no refund shall be allowed unless a written request be presented to the Income Tax Division Administrator within three (3) years after the date the tax was due or the return was filed, whichever is later. (Ord. 2624-00).

361.24 COLLECTION AT SOURCE.

- (a) Each employer within or doing business within the City, shall deduct at the time of payment of such salaries, wages, commissions or other compensation as defined in Section 361.16 of this Chapter, the tax of two (2) percent of the gross salaries, wages, commissions or other compensation earned by said employee on or before September 30, 2009 and the tax of two and one-half percent (2.5%) of the gross salaries, wages, commissions or other compensation earned by said employee on or after October 1, 2009, and due by the said employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to the City in accordance with the payment schedule prescribed by subsection (c) hereof. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Every employer or officer of a corporation is deemed to be a trustee for this municipality in collecting and holding the tax required under the ordinance to be withheld and the funds so collected by such withholding are deemed to be trust funds. (Ord. 0674-2009).
- (b) In the case of employees who are non-resident professional athletes, the deduction and withholding of personal service compensation shall attach to the entire amount of wages, salaries and other compensation received for games that occur in the taxing community. In the case of a non-resident athlete not paid specifically for the game played in a taxing community, the following apportionment formula must be used: The wages, salaries and other compensation earned and subject to tax is the total income earned during the taxable year, including incentive payments, signing bonuses, reporting bonuses, incentive bonuses, roster bonuses and other extras, multiplied by a fraction, the numerator of which is the number of exhibition, regular season, and post-season games the athlete played (or was available to play for his team, as for example, with substitutes), or was excused from playing because of injury or illness, in the taxing community during the taxable year, and the denominator of which is the total number of exhibition, regular season, and post season games which the athlete was obligated to play under contract or otherwise during the taxable year,

including games in which the athlete was excused from playing because of injury or illness. Exhibition games are only those games played before a paying audience, and played against another professional team from the same professional league. In the case of non-resident salaried athletic team employees who are not professional athletes, deduction and withholding shall attach to wages, salaries and other compensation earned for personal services performed in the City.

- (c) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:
 - (1) Semimonthly payments of the taxes deducted are to be made by an employer if (1) the total taxes deducted in the prior calendar year were \$12,000 or more, or (2) the amount of taxes deducted for any month in the preceding quarter exceeded \$1,000. Such payment shall be paid to the City within five banking days after the fifteenth and the last day of each month.
 - (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than \$12,000 but more than \$2,399 or if taxes withheld during any month for the preceding quarter exceeded \$200. Commencing with taxable years subsequent to December 31, 1998 monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than \$12,000 but more than \$3,599 or if taxes withheld during any month for the preceding quarter exceeded \$300. Such payments shall be paid to the City within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this paragraph need not be paid until the last day of the month following such quarter.
 - (3) All employers not required to make semimonthly or monthly payments of taxes withheld under (1) and (2) of this subsection shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (d) Each employer who maintains a place of business in the City and another branch within the metropolitan area of the City, must also withhold the tax from employees residing in the City but working at the employer's metropolitan area branch even though the payroll records and place of payment are outside the City.
- (e) The employer shall make and file a return on a form furnished by the City Auditor, showing the amount of tax deducted by said employer from the salaries,

wages, commissions or other compensation of any employee and paid by the employer to the City Treasurer. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under Chapter 361 is the salaries, wages, commissions and other compensation returned by said employer.

- (f) Each employer, on or before the 31st day of January, unless written request for thirty (30) days extension is made to and granted by the City Auditor, following any calendar year in which such deductions have been made, or should have been made by an employer, shall file with the City Auditor an information return (Columbus Withholding Statement of Wages paid, and Columbus Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid said employee during the year and the amount of City income tax withheld from each employee.
- (g) Where a resident of the City performs service for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the City to the extent of the tax liability in the other municipality.
- (h) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due. (Ord. 2624-00).

361.25 DECLARATIONS.

Every person who anticipates any taxable income which is not subject to C.C. 361.24 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by C.C. 361.19(c) inclusive and 361.19(d) hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the City in accordance with C.C. 361.24 hereof, such person need not file a declaration.

Such declarations shall be filed on or before April 15 of each year during the life of this chapter, or on or before the 15th day of the 4th month the taxpayer becomes subject to tax for the first time.

Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the 15th day of the 4th month after the beginning of each fiscal year or period.

Such declaration shall be filed upon a form furnished by, or obtainable from the City Auditor, provided, however, credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of C.C. 361.24 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

Such declarations of estimated tax to be paid the City shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax, and at least a similar amount shall be paid on or before the 15th day of the sixth, ninth and twelfth months after the beginning of the taxable year; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

On or before the 15th day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of C.C. 361.22 hereof.

A declaration of estimated tax which is less than 80% of the tax as shown on the final return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 361.36. (Ord. 2624-00).

361.26 DUTIES OF THE CITY TREASURER.

It shall be the duty of the City Treasurer to collect and receive the tax imposed by this chapter in the manner prescribed by this chapter, and it shall also be his duty to keep an accurate record showing the payments received by him from each taxpayer and the date of such payment. (Ord. 1516-61).

361.27 DUTIES OF THE CITY AUDITOR.

The City Auditor is hereby charged with the administration and enforcement of the provisions of this chapter and he is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to the matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the City Auditor may determine the amount of tax appearing to be due the City from the taxpayer

and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. (Ord. 1516-61)

361.28 INVESTIGATIVE POWERS OF THE AUDITOR.

- (a) The City Auditor, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or who the City Auditor believes is subject to the provisions of this chapter, for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the City Auditor, or his duly authorized agent or employee, at the reasonable time and place designated, the opportunity for making such examinations and investigations as are hereby authorized.
- (b) The City Auditor is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or would have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- (c) No person upon written order shall fail to appear before the City Auditor or his authorized employee on the date, time and place designated in the written order. (Ord. 2890-90).

361.29 TAX INFORMATION CONFIDENTIAL; PENALTY.

Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter, shall be confidential, except for official purposes, or except in accordance with proper judicial order. The City Auditor may furnish the Bureau of Internal Revenue, Treasury Department of the United States with copies of the returns filed. Any person accessing such information without an authorized need or divulging such information, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each act of unauthorized access or disclosure shall constitute a separate offense. (Ord. 2624-00).

361.30 COLLECTION OF UNPAID TAXES.

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

The City Auditor is authorized, in addition to his other duties, to institute civil law suits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The City Auditor is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State statutes of limitations. (Ord. 1516-61).

361.31 VIOLATIONS; GENERAL PENALTY.

- (a) No person subject to the provisions of this chapter shall do any of the following:
 - (1) Fail, neglect or refuse to make and file any return or declaration.
 - (2) Fail, neglect or refuse to pay the tax, interest or penalty imposed by this chapter.
 - (3) Being a corporation or business association fail, neglect or refuse to permit the City Auditor or his duly authorized agent or employee the opportunity to examine their books, records and papers by failing to produce such information at the reasonable time and place designated pursuant to Section 361.28 of this Code.
 - (4) Knowingly make and file an incomplete, false or fraudulent return.
- (b) No employer shall fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter.
- (c) The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse either one from making a return or declaration or paying the tax levied under this chapter.
- (d) Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the fourth degree and upon conviction thereof, shall be fined in a sum not to exceed two hundred fifty dollars (\$250.00) or imprisoned for a period not to exceed thirty (30) days or both for first offense, and shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months for a second or subsequent conviction. (Ord. 2890-90).

361.32 BOARD OF TAX APPEALS.

A Board of Tax Appeals is hereby created consisting of the City Auditor or designee, the City Treasurer or designee and the Director of the Department of Finance or designee.

The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board of Tax Appeals shall constitute a quorum. The Board of Tax Appeals shall adopt its own procedural rules and keep a record of its transactions. All hearings by the Board may be conducted privately and the provisions of Section 361.29 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard on appeal before the Board of Appeals.

Any person who has filed returns or other documents required by this Chapter and who is aggrieved by a decision of the City Auditor or the designee thereof pertaining to that filing may appeal said decision to the Board of Tax Appeals. Such appeal shall be in writing, shall state why the decision should be deemed incorrect or unlawful and shall be filed no more than thirty (30) calendar days after the issuance of the decision being appealed.

Unless the person who has filed a timely appeal of the decision issued by the City Auditor or his designee waives a hearing, the Board of Tax Appeals shall schedule a hearing within forty-five (45) days after receiving the appeal. At the hearing, the appellant as well as the City Auditor or designee thereof may appear before the Board. The Board shall issue its decision within ninety (90) days of the hearing, sending notice of same to the appellant and the City Auditor within fifteen (15) days of its issuance. (Ord. 2624-00)

361.33 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every individual taxpayer who resides in the City but who received net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside the City, if it be made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, salaries, wages, commissions or compensation in another municipality, shall be allowed a credit for the amount so paid by him or in his behalf in such other municipality, this credit to be applied only to the extent of the tax assessed by this chapter, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid. (Ord. 2624-00).

361.34 EXEMPTIONS.

The provisions of this chapter shall not be construed to tax the military pay or allowances of members of the armed forces of the United States, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.

The tax provided for herein shall not be levied on the personal earnings of any natural person under eighteen (18) years of age.

Mentally retarded and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops shall be exempt from the levy of the tax provided herein. (Ord. 2624-00)

361.35 CONTRACT PROVISIONS.

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

"Said...hereby further agrees to withhold all City income taxes due or payable under the provisions of Chapter 361, Columbus City Codes, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due under said chapter for services performed under this contract." (Ord. 2624-00).

361.36 PENALTIES AND INTEREST.

- (a) All taxes imposed by Section 361.19 and collected by Section 361.22 and 361.25 of this chapter, which remain unpaid after they become due shall result in the assessment of a penalty of ten (10) percent of the amount of unpaid tax.

A penalty shall not be assessed on an additional tax assessment made by the City Auditor when a return has been filed in good faith and the tax paid thereon within the time prescribed by the City Auditor; and provided further, that, in the absence of fraud, neither penalty or interest shall be assessed on any additional tax assessment resulting from a Federal audit providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the Federal tax liability.

- (b) In the event that a taxpayer has a duty as imposed by Section 361.22 or 361.24 of this Code, to file a return and does not do so, a penalty of twenty-five dollars (\$25.00) per month shall be assessed the day after the due date of the filing and for each month thereafter, not to exceed one hundred fifty dollars (\$150.00). This penalty shall not apply to taxpayers required to file an individual separate or individual joint return.
- (c) In the event that the taxpayer has properly requested an extension of filing time, no penalty shall be assessed in those cases in which the return is filed and the final tax, if any, is paid within the period as extended.

- (d) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax.

Such interest shall be computed by using the federal short-term rate, rounded to the nearest whole number percent plus three (3) percent for interest that accrues during the following calendar year.

- (1) Such interest rate shall be made public on the thirtieth day of October of each year.
- (2) Such interest rate computation shall be utilized for all taxes due on or after January 1, 1991.
- (3) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three (3) years or less, as determined under Section 1274 of the "Internal Revenue Code of 1966", 100 Stat. 2085, 26 USC 1274, for July of the current year. (Ord. 2624-00).

361.37 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be applied for the following purpose and in the following order, to-wit:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by Chapter 361, Columbus City Code, and enforcing the provisions hereof.
- (b) Such part thereof as Council may appropriate to the General Fund for the purpose of paying the cost of general municipal operations.
- (c) Such part thereof as Council may appropriate for the purpose of paying the cost of maintenance of, and the purchase of new equipment motorized or other.
- (d) Such part thereof as the Council may appropriate for the purpose of paying the cost of the repair and maintenance of streets.
- (e) In any event, at least twenty-five (25) percent of all monies collected under chapter 361 shall be deposited in a special fund to be used only for the payment on interest and principal on bonds and notes issued by the city. Interest and principal due on bonds and notes issued in excess of the one percent limitations as authorized by Article XII, Section 2, of the Constitution of the State of Ohio, shall be first paid from said fund before any payment may be made on interest or principal due on other notes or bonds. Provided, however, that in any year when monies are used to pay interest or principal on bonds or notes other than those issued in excess of the one percent limitations, as authorized by Article XII,

Section 2, of the Constitution of the State of Ohio, the additional monies accruing to the general fund thereby shall be used only for permanent improvements as defined in Section 133.01, Revised Code of Ohio. Provided, further, that monies deposited in the special fund created by the authority of this sub-section may be appropriated to defray the cost of engineering plans and specifications for Federal-aid Highways. However, at such time as the Council of the City of Columbus issues bonds to construct the aforesaid Federal-aid Highways, the special fund created by this sub-section shall be reimbursed, from said bond issues in an amount equal to that appropriated for said engineering plans and specifications for Federal-aid Highways.

Except with regard to interest and principal due on bonds and notes issued in excess of the one percent limitation, as authorized by Article XII, Section 2, of the Constitution of the State of Ohio, no monies from the special fund created in this sub-section shall be expended without special authorization of City Council. (Ord. 2624-00).

361.38 PENALTY AND INTEREST ON UNPAID WITHHELD TAXES.

- (a) All taxes deducted by an employer or required to be deducted and withheld by an employer pursuant to Section 361.24 of this chapter remaining unpaid after they become due shall result in the assessment of a penalty of fifty percent (50%) of the amount of the unpaid tax.
- (b) All taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due pursuant to Section 361.24(c)(1), (c)(2) or (c)(3), shall bear interest on the amount of unpaid tax.

Such interest shall be computed by using the federal short-term rate, rounded to the nearest whole number percent plus three (3) percent for interest that accrues during the following calendar year.

- (1) Such interest rate shall be made public on the thirtieth day of October of each year.
- (2) Such interest rate computation shall be utilized for all taxes due on or after January 1, 1991.
- (3) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three (3) years or less, as determined under Section 1274 of the "Internal Revenue Code of 1966", 100 Stat. 2085, 26 USC 1274, for July of the current year. (Ord. 2624-00).

INCOME TAX REGULATION

Where compensation is paid or received in property or the use thereof, its fair market value shall be subject to the tax and/or to withholding (deduction of tax at source), and shall be included in earnings at fair market value to the same extent and at the same time that all such items are or may be taxable under the Federal Internal Revenue Code as it exists now or is hereinafter amended. The value finally accepted for the purposes of Federal Internal Revenue Code will be accepted by the City Auditor and shall be used by the taxpayer. This provision only provides for the valuation of income paid or received in property or the use thereof and shall not be interpreted to adopt or refer to any other provision of the Federal Internal Revenue Code. For purposes of this regulation the phrase "income paid or received in property or use thereof" shall not include any deferred income currently taxed by the City of Columbus Income Tax Code.