

CHAPTER 181

Income Tax

- 181.01 Purpose.
- 181.02 Definitions.
- 181.03 Imposition of tax.
- 181.04 Effective period.
- 181.05 Return and payment of tax.
- 181.06 Collection at source.
- 181.07 Declarations.
- 181.071 Declaration by owners of residential rental property regarding tenants.
- 181.08 Duties of the Administrator.
- 181.09 Investigative powers of the Administrator.
- 181.10 Interest and penalties.
- 181.11 Collection of unpaid taxes and refunds of overpayments.
- 181.12 Board of Review.
- 181.13 Allocation of funds.
- 181.14 Credit for tax paid to another municipality.
- 181.99 Penalty.

CROSS REFERENCES

- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- State income tax - see Ohio R.C. Ch. 5747

181.01 PURPOSE.

In order to provide funds for the purpose of general Municipal operations, maintenance or equipment, new equipment, extension and enlargement of Municipal services and facilities and capital improvement of the Municipality of Munroe Falls, there shall be, and is hereby, levied a tax on gross income including salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(Ord. 51-2003. Passed 12-16-03.)

181.02 DEFINITIONS.

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

(a) "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, adjusted 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 the production of income;

(2) Add an amount equal to five per cent of intangible income deducted under division 718.01A(1)(a) of the Internal Revenue Code, 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;

(3) 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;

(4) Except as provided in Section 718.01A(1)(d)(ii) of the Internal Revenue Code, 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 section 1221 or 1231 of the Internal Revenue Code;

(ii) Section 718.01A(1)(d)(I) of the Internal Revenue Code 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) In the case of a real estate investment trust and 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;

(7) 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:

(i) 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; and

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

(b) "Administrator" means the individual appointed by the Mayor to administer and enforce the provisions of this ordinance.

(c) "Association" means the individual appointed by the Mayor to administer and enforce the provisions of this ordinance.

(d) "Board of Review" means the Board created by and constituted as provided in Section 181.12.

(e) "Business" means an enterprise, activity, profession, 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.

(f) "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 including chapter S corporations.

(g) "Domicile: means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

(h) "Employee" means one who receives wages, salaries, commissions, or other type of compensation in the service of employers.

(i) "Employer" means an individual, partnership, association, corporation, governmental body, 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 compensation basis.

(j) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. For the purpose of this chapter, fiscal year shall coincide with the fiscal year of reporting business for federal income tax purposes.

(k) "Gross income" shall include all monies derived from any source whatsoever, including:

(1) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the City, including distributive shares of any unincorporated business entity or association against which Munroe Falls income tax is not already levied.

(2) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the City, and

(3) The portion attributable to the City of the net profits of all unincorporated business, 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 Munroe Falls. Such portion shall be determined as provided in Section 181.03 and in accordance with the regulations adopted by the board of Review pursuant to this chapter.

(l) "Gross receipts" means the total gross revenue derived from sales, work done, service rendered, before any deductions, exceptions, exclusions, or credits are claimed.

(m) "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 Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, 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 similar games of chance.

(n) "Joint economic development district" means districts created under Ohio R. C. Section 715.70 and 715.71, as amended from time to time and hereinafter referred to as "JEDD".

(o) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary 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 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. Net profits shall include any amount or value received, realized or recognized in a sale or other disposition of tangible personal property or real property used in business in excess of book value.

(p) "Nonresident" means a person domiciled and/or having a place of business outside the Municipality.

(q) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.

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

(s) "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 employees regularly in attendance.

(t) "Resident" means a person who resides in and/or having a place of business in this Municipality.

(u) "Unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.

(v) "Taxable income" means wages, salaries and other compensation before any deductions. Other compensation includes but is not limited to bonuses, commissions, incentive payments, directors fees, officers' compensation, guaranteed payment to partners, certain royalties, fiduciary fees, property in lieu of cash, tips, dismissal or severance pay, supplemental income benefits for early retirement regardless of their label, contest prizes and awards, lottery and gambling winnings, tax shelter plans, vacation and sick pay regardless of their label, wage continuation plans, supplemental unemployment benefits, deprecations recapture, gifts and gratuities in connection with employment; fellowships, grants and stipends, employees' entire cost of group-term life insurance in excess of fifty-thousand dollars (\$50,000.00); benefits resulting from the employers assumption of a tax; stock options given as compensation, when exercised; employee contributions to retirement plans, deferred compensation plans, severance benefit or other tax shelter plans; income appearing on a W-2 Form that is not defined in Section 181.03(e) as nontaxable; and that portion of wages solely because the employee was employed by the employer prior to April 1, 1986.

(w) "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.

(x) "Taxing Municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.

(y) "Taxpayer" means a person, either a resident or nonresident, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return or pay tax.

(z) "Municipality" means the Municipality of Munroe Falls.

(aa) Throughout this chapter, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 51-2003. Passed 12-16-03.)

181.03 IMPOSITION OF TAX.

(a) An annual tax for the purposes specified in Section 181.01 hereof shall be and is hereby imposed on and after January 1, 1971, at the rates indicated during the year indicated; one percent (1%) per annum during the calendar year 1971, one percent (1%) per annum January 1, 1972 to June 30, 1981, both inclusive, and two percent (2%) per annum from July 1, 1981 to December 31, 1981, both inclusive, and during each calendar year thereafter upon the following:

(1) On all salaries, wages, commissions and other compensation earned during the effective period of this ordinance by residents of the Municipality.

(2) On all salaries, wages, commissions and other compensation earned during the effective period of this ordinance by nonresidents for work done or services performed or rendered in the Municipality.

(3) A. On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions, or other entities, derived from the sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.

(4) A. On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or

rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity.

(5) On the portion attributable to the Municipality of the net profits earned during the effective period of this ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

(6) A municipal corporation shall not tax any of the following in relation to S corporations:

A. Except as provided in division 718.01 of the Internal Revenue Code, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121 (a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

B. If, pursuant to division (H) of former section 718.01 of the Revised Code as it existed before the effective date of the amendment of that section by H. B. 127 of the 125th General Assembly, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.

C. If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on 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 Revised Code if the S corporation were a corporation subject to taxes imposed under Chapter 5733 of the Revised Code, the municipal corporation may continue to impose the tax on such distributive shares to that extent only until December 31, 2004, unless a majority of the electors of the municipal corporation voting on the question of continuing to tax such shares after that date vote in favor of that question at an election held November 2, 2004. If a majority of those electors vote in favor of the question, the municipal corporation may continue to impose the tax on such shares to that extent after December 31, 2004.

D. For the purposes of division (D) of section 718.14 of the Revised Code, a municipal corporation shall be deemed to have elected to tax S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation vote in favor of a question at an election held under division (F) (9) (b) or (c) of the Internal Revenue Code. The municipal corporation shall specify by ordinance or rule that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(7) On all salaries, wages, commissions, and other compensation earned during the effective period of this chapter for work done or services performed by employees, eighteen years of age or older of the Municipality who are not otherwise subject to the provisions of this chapter.

(b) The portion of the net profits attributable to the Municipality of a taxpayer conducting a business, profession, or other activity both within and without the boundaries of the Municipality shall be determined as provided in Ohio R. C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Operating Loss Carry Forward. Effective January 1, 2004, the City of Munroe Falls will not allow net operating loss carry forwards.

(d) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Administrator.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within Munroe Falls constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Municipality.

(e) Exceptions. The tax provided for herein shall not be levied upon:

(1) The military pay or allowances of active duty members of the armed forces of the United States.

(2) The income of religious, charitable, fraternal, 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.

(3) Pensions, income from intangibles (interest and dividends from stocks and bonds), proceeds of insurance except for loss of business income, annuities, government allotments, Social Security benefits, compensation for personal injury or property damage, Worker's Compensation, and reimbursement for expenses.

(4) All persons under eighteen years of age.

(5) Receipts from seasonable or casual entertainment, amusements, sports events, and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.

(6) Alimony received.

(7) Salaries, wages, commissions, and other compensation and net profits, the taxation of which is prohibited by the U. S. Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(8) Salaries, wages and commissions, and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.

(9) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the state from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(10) Except deductible on Federal Form 2106 to the extent they are deductible on Schedule A of the Federal 1040.

(11) Any individual may claim credit for tax paid to another municipality or to a joint economic development district set forth in 181.14.

(12) Capital gains income.

(13) Compensation attributable to a plan or program described in Internal Revenue Code Section 125.

(Ord. 51-2003. Passed 12-16-03.)

181.04 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned from and after January 1, 1971.
(Ord. 51-2003. Passed 12-16-03.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15, of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions, or other compensation of an employee, and paid by him or them to the Administrator may be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions, or other compensation.

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

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from a business, profession, or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

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

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

(c) The Administrator may extend the time for filing of the annual return on the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested or granted by the Internal Revenue Service for the filing of the Federal Income Tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. All extensions for the filing of the annual return shall be requested by the taxpayer, in writing, and accompanied by a copy of the federal extension, by April 30th in order to be considered.

(d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon, provided, however that where any portion of tax so due shall have been deducted at the source pursuant to the provisions of Section 181.06, or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07, or where an income tax has been paid to another municipality or to a JEDD, credit for the amount so paid in accordance with Section 181.14, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(2) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of the chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or

part thereof shall be refunded, provided that no additional taxes are due. No tax or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(e) (1) Amend returns. When necessary 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 Sections 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change a method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three months from the final determination of any Federal tax liability affecting the taxpayer's tax liability, such taxpayer shall bake and file an amended return showing income subject to the Municipal tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 51-2003. Passed 12-16-03.)

181.06 COLLECTION AT SOURCE.

(a) (1) Each employer within or doing business within the Municipality who employs one or more persons on a salary, wage, commission, or other compensation basis, shall at the time of payment thereof, deduct the tax from the gross salaries, wages, commissions, or other compensation earned by Municipal residents regardless of where such compensation was earned and shall deduct the tax from the salaries, wages, commissions, or other compensation earned within the Municipality by nonresidents'

(2) Each employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the Municipality the tax hereby required to be withheld. Such return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the rules and regulations prescribed therefor by the Tax Administrator. 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. However, the Administrator may, when authorized by rule of general application adopted by the Board of Review, require the filing of returns and payment of tax withheld on a monthly basis. In such case the employer shall, on or before the last day of each month following, make a return and pay to the Administrator the tax withheld during the preceding month.

(3) On or before January 31, following any calendar year such employer shall file with the Tax Administrator an information return for each employee from whom the Municipal Income Tax has been, or should have been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year and the amount of the Municipal income tax withheld from such employee.

(4) The 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.

(5) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(6) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(b) (1) Such employer in collecting the tax shall be deemed to hold the same, until payment is made by such employer to the Municipality as a Trustee for the benefit of the

Municipality and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.

(c) (1) No person shall be required to withhold the tax on salaries, wages, commissions, other compensation and other income paid domestic workers employed by such person exclusively in or about such person's residence, even though the residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(2) Employers for limited engagements, who make payment for services at said engagement, as set forth below, shall, for the purposes of the collection of the income tax, be required to withhold, report, and pay over to the Tax Administrator the municipal income tax at the current rate on the gross amount so paid on completion of the engagement, said reports to be on forms approved by the Tax Administrator. Employers for limited engagements includes:

A. Any person who employs or contracts for the services of any entertainer, entertainment act, sports event, band, orchestra, rock group, or theatrical performance; or

B. Any person who, acting as a promoter, booking agent, or employer, engages the services of, or arranges the appearance of any entertainer, entertainment act, sports event participant, band, orchestra, rock group, or theatrical performance.

(3) Every contract on behalf of the City for works or improvements of the City shall contain the following provisions:

The contractor further agrees that all city income taxes due or payable under Section 181 of the City of Munroe Falls Codified Ordinances shall be withheld by the contractor pursuant to 181.06 and further agrees that any of its subcontractors shall be required to withhold income taxes as set forth in Chapter 181.

(Ord. 51-2003. Passed 12-16-03.)

181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 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 from which the tax will be withheld and remitted to the Municipality in accordance with Section 181.06 hereof, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for any municipal income tax or JEDD tax to be withheld from any portion of income. In accordance with the provisions of Section 181.14, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

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

(d) (1) If such declaration of estimated tax to be paid to the Municipality is one hundred dollars (\$100.00) or less for the taxable year, the declaration may be accompanied by payment of the estimated annual tax, or the taxpayer may elect to pay quarterly at the times described in the following paragraph, or pay the amount in full with the annual Return due on or before the last day of the month of the year following that for which such declaration or amended declaration was filed.

(2) If such declaration of estimated tax to be paid to the municipality exceeds one hundred dollars (\$100.00) for the taxable year, the declaration shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the sixth, ninth, and twelfth months after the beginning of a taxable year. Provided, however, that in the case an amended declaration has been filed declaring a tax due in excess of one hundred dollars (\$100.00) for the taxable year, the unpaid balance shown thereon shall be paid in equal installments on or before the remaining dates.

(dd) If the estimated tax payments paid by the taxpayer during the tax year as required by Chapter 181 of the Codified Ordinances equals one hundred percent (100%) of the prior tax years tax liability, then, in that event, the interest and penalties described in Section 181.10 of this chapter shall not be assessed.

(ddd) Every person that is subject to this section regarding declarations of income who has resided in the City of Munroe Falls for less than a full calendar year attributable to the first required tax filing shall not be subject to the penalties described by Section 181.10 for the persons failure to timely file declarations of income and payment of tax.

(e) On or before the last 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 Municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof. (Ord. 90-95. Passed 12-28-95.) (Ord. 51-2003. Passed 12-16-03.)

181.071 DECLARATION BY OWNERS OF RESIDENTIAL RENTAL PROPERTY REGARDING TENANTS.

(a) On or before February 1, 1993, all owners of rental or leased property, who rent to tenants of residential premises, shall file with the Tax Administrator a declaration listing the name and address of each tenant who occupies such residential premises within the City as of January 1, 1993.

(b) Beginning January 1, 1993, and thereafter, within thirty days after a new tenant occupies residential rental property of any kind within the City, all owners of rental or leased residential property who rent to tenants shall file with the Tax Administrator a declaration listing the name and address of each tenant who occupies such rental premises within the City.

(c) Beginning January 1, 1993, and thereafter, within thirty days after a tenant vacates a rental or leased residential property located within the City, the owner of each vacated rental or leased property shall file with the Tax Administrator a declaration listing the date of vacation from the rental or leased residential property, and, if known, the forwarding address of such vacating tenant.

(d) Property owners having twelve or more residential rental or leased units within the City may, in lieu of subsection (b) and (c) hereof, comply with the intent of this section by

filing with the Tax Administrator on a monthly or quarterly basis, as the Tax Administrator may prescribe by rule or regulation, an accurate declaration of all new tenants names and addresses and an accurate declaration of names and available forwarding addresses of all tenants who vacate their units.

(e) For purposes of this section, "tenant" means:

(1) A person eighteen years of age or older known to be occupying residential 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.

(f) Any owner of residential rental or leased property who fails to provide a declaration required by this section shall be guilty of a minor misdemeanor.

(Ord. 51-2003. Passed 12-16-03.)

181.08 DUTIES OF THE ADMINISTRATOR.

(a) (1) The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; keep an accurate record thereof; and report all moneys so received.

(2) The Administrator shall enforce payment of all taxes owing the Municipality and keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes, and the administration and enforcement of the provisions of this chapter including provisions for the reexamination and correction of returns. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total amount unpaid, including penalty and interest, to become payable on demand and the provisions of Sections 181.11 and 181.99 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the Municipality 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.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10.

(Ord. 51-2003. Passed 12-16-03.)

181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR.

(a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records, and Federal and State income tax returns of any employer, or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose 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 Administrator, or his duly authorized agent or employee, the means, the facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Administrator 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 should have been returned for taxation, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, and Federal and State 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) The refusal to produce books, papers, records, and Federal income tax returns, or the refusal to submit to such examination by any employer or person subject to the tax or by any officer, agent, or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter punishable as provided in Section 181.99.

(d) (1) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order or upon a waiver signed by the individual(s) who submitted the return. Any person divulging such information in violation of this chapter, shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six months or both.

(2) Each disclosure shall constitute a separate offense.

(3) In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of one year from the date his return is filed or withholding taxes are paid or due. (Ord. 51-2003. Passed 12-16-03.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1 1/2%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due - other than taxes withheld; one and one-half percent (1.5%) per month or fraction thereof or five percent (5%) of total tax due, whichever is greater.

(2) For failure to remit taxes withheld from employees; five percent (5%) per month or fraction thereof, or ten percent (10%) of the total tax due, whichever is greater.

(3) For failure to file a timely and complete income tax return, twenty-five dollars (\$25.00) for the first instance, fifty dollars (\$50.00) for the second instance, and one hundred dollars (\$100.00) for each subsequent instance.

A. This penalty for the first instance shall not apply to a first time City of Munroe Falls tax filer who resided within the City of Munroe Falls for less than the full calendar year.

(4) For failure to properly declare and pay estimated taxes as required by Section 181.07 of this ordinance, a penalty of eighteen percent (18%) of the balance of the tax due upon filing the return. The penalty may not be waived or excused for any reason except:

A. The aggregate installments of estimated taxes are at least 90% of the actual tax due.

B. The estimated payments paid by the tax payer during the tax year equals one hundred percent of the prior tax year's tax liability.

C. The person filing the tax return resided in the City of Munroe Falls for less than the full calendar year attributable to the tax filing and is a first tax filer within the City of Munroe Falls.

(c) A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest or, both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

(e) Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over such tax or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(Ord. 51-2003. Passed 12-16-03.)

181.11 COLLECTION OF UNPAID TAXES, AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period

within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

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

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(d) Those officers having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes due as required. The dissolution, bankruptcy, or reorganization of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.

(e) Overpayments of less than forty dollars (\$40.00) shall not be refunded but shall be applied against liability in the subsequent year where it is evident that a liability will exist in the subsequent year. (Ord. 51-2003. Passed 12-16-03.)

181.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the Municipality, shall be appointed by the Mayor, with the advice and consent of Council. The Board of Review shall hear any appeal filed as a result of the obligations imposed by this chapter.

Each appointment term shall be for three years. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.09 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 before the Board on appeal.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Any person who is aggrieved by a ruling or decision of the Tax Administrator, and who has filed with the City the required returns or other documents pertaining to Municipal tax obligations at issue, may appeal the decision to the Board of Review. The appeal must be in writing, must state why the decision should be deemed incorrect or unlawful, and must be filed within thirty days after the Tax Administrator issues the decision complained of.

(d) The Board of Review shall schedule a hearing within forty-five days after receiving the request unless the taxpayer waives a hearing. The taxpayer and/or their representative may appear if the taxpayer does not waive the hearing.

(e) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal. The taxpayer shall be notified of the Board's decision by regular mail within fifteen days after issuing the decision.

(f) The Board shall adopt rules governing its procedures and keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. Provisions of Section 181.09 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 before the Board on appeal.

(g) Decisions of the Board of Review for tax returns beginning in 2004 may be appealed to either the Common Pleas Court or the State Board of Tax Appeals pursuant to Ohio R. C. Sections 5717.01, 5717.011 and 5717.02.
(Ord. 51-2003. Passed 12-16-03.)

181.13 ALLOCATION OF FUNDS.

(EDITOR'S NOTE: Council designates the allocation of funds collected by this chapter by resolution on a yearly basis. See the Clerk for the latest legislation.)

181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) When a taxpayer who resides in the Municipality is subject to a Municipal income tax in another municipality or in a Joint Economic Development District created pursuant to Ohio R.C. 715.70, the resident, effective January 2, 2004, shall receive a credit of one hundred percent (100%) of the tax assessed by this chapter on the income earned in the other municipality or Joint Economic Development District where such other income tax is paid.

(b) Every taxpayer who resides in this Municipality who receives net profits, salaries, wages, commission, or other compensation, and other income from a resident or nonresident business entity or association of which he is a partner or owner, for work done or services performed or rendered outside of this Municipality, if it be made to appear that the taxpayer or such business entity has paid a municipal or a joint development district income tax on or with respect to the same income taxable under this chapter to another municipality or the Joint Economic Development District created pursuant to Ohio R.C. 715.70, shall be allowed credit against the tax imposed by this chapter in the amount paid by the taxpayer or on behalf of the taxpayer or by such business entity to such other municipality or the Joint Economic Development District credited pursuant to Ohio R.C. 715.701. In no event, however, shall any municipal income tax or any Joint Economic Development District income tax to the extent paid to another municipality or to a Joint Economic Development District and allowed as a credit hereunder be deductible in computing the net profit of such taxpayer or such business entity.
(Initiative Ordinance passed 11-4-03.)

(c) A claim for credit for refund under this section shall be made in such manner as the Administrator may by regulation provide. If a City resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, the taxpayer shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.
(Ord. 51-2003. Passed 12-16-03.)

181.99 PENALTY.

(a) Any person who:
(1) Fails, neglects or refuses to make any return or declaration required by this chapter; or

- (2) Makes any incomplete, false or fraudulent return; or
- (3) Fails, neglects or refuses to pay the tax, penalties, or interest imposed by this chapter; or
- (4) Fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuses to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers, and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fails to appear before the Administrator and to produce his books, records, papers, or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Gives to an employer false information as to his true name, correct social security number, and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid, and Municipal tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempts to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this chapter; shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

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

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return, or declaration, from filing such form, or from paying the tax.

(Ord. 51-2003. Passed 12-16-03.)