

Effective 1/1/2004 Akron's income tax rate is 2.25%, with .25% benefiting Akron's Community Learning Centers.(See Section 99.20)

THE CITY OF AKRON, OHIO
INCOME TAX ORDINANCE

Ordinance No. 808-1994
Effective January 1, 1995

(Amending Chapter 99 of the Code of Ordinances)

Passed by Council: October 31, 1994

Signed by Mayor: November 10, 1994

(Including additional amendments approved by Ordinances 824-1998, 774-2000, 282-2003 & 418-2004)

Sections 99.01 through 99.20, 99.99, Chapter 99, "Taxation"

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INCOME TAX

99.01 PURPOSE

To provide funds for capital improvements and general municipal operations of the city, there is levied a tax on gross income, including, but not limited to, salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided.

99.02 DEFINITIONS

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Association. A partnership, limited partnership, limited liability company, S corporation, or any form of unincorporated enterprise owned by two or more persons.

Board of Review. The Board created and constituted as provided in Section 99.16.

Business. An enterprise, activity, profession, public utility, public service, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, C corporation or other entity.

Commissioner. The Tax Commissioner.

C Corporation. A C corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory, foreign country or dependency, but not including S corporations.

Domicile. The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

Declaration of Estimated Tax. The estimated tax liability reported on a declaration as set forth in Section 99.10. The declaration of estimated tax shall at a minimum be the lesser of 90% of the estimated current year annual tax or 100% of the prior year tax.

Employee. One who receives salaries, wages, commissions or other types of compensation from an employer.

Employer. An individual, association, C corporation, governmental body, unit, agency or any other entity, whether or not organized for profit, that provides one or more persons a salary, wage, commission, or other compensation as set forth in Section 99.03.

Fiscal Year. An accounting period of 12 months or less ending on any day other than December 31.

Gross Income. Shall include all monies derived from any source whatsoever, including, but not limited to:

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

(B) 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.

(C) The portion attributable to the city of the net profits of all unincorporated businesses, associations, professions, C corporations, or other entities, from sales made, work done, services performed or rendered, and

business or other activities conducted in the city of Akron. Such portion shall be determined as provided in Section 99.04 and in accordance with the regulations adopted by the Board of Review pursuant to this Chapter.

Gross Receipts. Shall mean the total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

Intangible Income. Income of any of the following types: income yield, interest, capital gains, dividends, or any 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 defined in Ohio Revised Code 718.01, 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.

Joint Economic Development District. Districts created under Ohio Revised Code Sections 715.70 and 715.71, as amended from time to time.

Net Profits. The net gain from the operation of a business, profession, or enterprise after provision for all ordinary and necessary expenses except the tax imposed by this chapter and federal and other taxes based on income, either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, adjusted to the requirements of this Chapter, the rules and regulations promulgated by the Tax Commissioner, and Ohio Revised Code 718.01(A).

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 to the extent of depreciation taken.

Nonresident. A person domiciled outside the city.

Person. Every natural person, partnership, fiduciary, association, or C 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 applied to C corporations, the officers thereof.

Place of Business. Any bona fide office (other than a mere statutory office), factory warehouse or other space which is regularly occupied and used by the taxpayer in carrying on any business activity, whether in person or through one or more employees regularly in attendance.

Qualifying Wages. As defined in Ohio Revised Code 718.03, the wage amount upon which an employer is required to withhold, and an employee is required to pay, a municipal income tax.

Real Estate Investment Trust (REIT). A C corporation (other than a bank or insurance company), trust, or association that specializes in investments in real estate and real estate mortgages, meets certain status requirements as defined in the Internal Revenue Code as to ownership and purpose, and satisfies gross income and diversification requirements.

Resident. A person domiciled in the city.

Rules and Regulations. Rules relating to the collection of taxes and the administration and enforcement of the provisions of this chapter which are adopted by the Tax Commissioner and approved by the Board of Review pursuant to Section 99.11 of this code.

S Corporation. An association that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

Taxable income. Gross income minus the deductions and credits allowed by this Chapter and Chapter 718 of the Ohio Revised Code.

Taxable Year. The calendar year, or the fiscal year on the basis of which the taxable income is 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.

Tax Commissioner. The Commissioner of the Income Tax Division in the Department of Finance of the city, or the person executing the duties of such Commissioner.

Taxpayer. A person, whether an individual, partnership, association, C corporation or other entity, required by this chapter to pay a tax.

99.03 IMPOSITION OF TAX

An annual tax for the purposes specified in Section 99.01 is imposed on and after January 1, 1963, at the rates indicated, during the years indicated: 1% per year during each of the calendar years 1963 to 1969, inclusively; 1.3% per year during the calendar year 1970; 1.4% per year during the calendar year 1971; 1.5% per year during each of the calendar years 1972 to 1980, inclusive, and the months of January and February 1981; 1.8% per year during the remaining months of calendar year 1981, commencing March 1, 1981; and 2% during the calendar year thereafter, per annum, on all taxable income.

99.04 DETERMINATION OF INCOME SUBJECT TO TAX

(A) In the taxation of income which is subject to this municipal income tax, if the books and records of a taxpayer conducting a business or profession both within or without the boundaries of the city 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 this 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 this tax in the same proportion as the average ratio of:

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

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

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession 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, excluding compensation that is not taxable by the city;

(3) Gross receipts of the business or profession from sales made and services 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. In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(B) As used in (A) above, "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 its own employees in the solicitation or promotion of sales at the place where delivery is made.

(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 taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(C) In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment or other employment compensation.

(D) The portion of a loss allowed to be deducted or carried forward by an Akron resident, from the operation of a business or rental property shall be calculated as follows:

(1) If the business or rental property is located within the corporate boundaries of the city of Akron, Ohio, or is in a jurisdiction that has no municipal or JEDD income tax, the entire loss may be deducted or carried forward against the same or other unincorporated business or rental profits, for a period of up to three (3) years.

(2) If the business or rental property is located outside the corporate boundaries of the city of Akron, Ohio, but is located in a jurisdiction that has a municipal or JEDD income tax, the amount of loss shall be calculated using the following formula:

Step A - Subtract the tax rate of the other municipality or JEDD from the tax rate of Akron.

Step B - If the result of Step A equals zero or less, stop. No amount of the loss can be deducted or carried forward.

Step C - If the result of Step A is greater than zero, divide the result by the tax rate of Akron.

Step D - Multiply the business loss by the result of Step C. This is the portion of the loss that can be deducted or carried forward against the same or other unincorporated business or rental profits, for a period of up to three (3) years.

99.05 CONSOLIDATED RETURNS

(A) Filing consolidated returns is permitted in accordance with regulations prescribed by the Tax Commissioner.

(B) In the case of a C corporation that carried on transactions with its stockholders or with other C 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 the city constituting a portion only of its total business, the Tax Commissioner may require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the city. If the Tax Commissioner finds net profits are not properly allocated to the city by reason of transactions with stockholders or with other C corporations related by stock ownership or interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity, or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the city.

99.06 EXCEPTIONS AND CREDITS

(A) The tax provided for herein shall not be levied on:

(1) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard;

(2) The gross income and gross receipts 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;

(3) Unemployment insurance benefits, welfare benefits, and pensions paid as a result of retirement.

(4) Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;

(5) Alimony received;

(6) Receipts from seasonal or casual entertainment, amusements, fund raising, sports events, and health and welfare activities when conducted by bona fide charitable, religious, or educational organizations and associations;

(7) The income of individuals under 18 years of age;

(8) The income of all individuals whose gross income is \$600 per year or less, regardless of the source;

(9) Gains from involuntary conversion, cancellation of personal 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) Expenses deductible on federal form 2106, subject to audit and approval by the Tax Commissioner;

(11) Salaries, income, wages, commissions, other compensation, other income and net profits, the taxation of which is prohibited by the United States 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; and

(12) Salaries, wages, commissions, other compensation, other income and net profits, including intangible income as provided in Ohio Revised Code 718.01, 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 city to impose net income taxes.

(B) Any individual may claim a credit for tax paid to another municipality or to a Joint Economic Development District as set forth in Section 99.18.

99.07 TAX SHARING AGREEMENTS

The Finance Director shall, subject to the approval of Council, have the authority to enter into an agreement with another political subdivision for the distribution of the tax imposed on the salaries, wages, commissions, other compensation and other income received by residents or nonresidents of the city.

99.08 RETURN AND PAYMENT; REGISTRATION

(A) City Council hereby directs that each person who was a resident of Akron at any time during the taxable year and who received any gross income for that taxable year, except as herein provided, shall, whether or not a tax is due thereon, make and file a return or exemption certificate, as appropriate, on or before April 15th of the year following the taxable year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth month following the end of such fiscal year or period. This method of filing termed "universal filing" shall be in effect until such time as Council provides otherwise, subject to the exception set forth in (H), herein. If directed by Council, the Tax Commissioner is authorized to provide by regulation that the return of an employer showing the amount of tax deducted by such employer from the salaries, wages, commissions, other compensation and other income of an employee, and paid

by him to the Tax Commissioner, may be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions, other compensation and other income.

(B) Each business, profession, association or C corporation with income attributable to Akron shall file a return with the Commissioner on a form or forms furnished by or obtainable upon request from the Commissioner or on other forms deemed acceptable by the Commissioner setting forth:

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

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

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

(4) Any business, profession, association, or C corporation reporting a net loss is subject to the filing requirements of this chapter.

(C) The Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or to the last day of the month following the month of an extension granted by the Internal Revenue Service for the filing of the federal income tax return. The Commissioner 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. The Commissioner may deny the extension request if the taxpayer's income tax account with the city of Akron is delinquent in any way.

(D) The taxpayer making a return shall, at the time of the filing thereof, pay to the Commissioner the amount of tax shown as due thereon; provided, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 99.09 or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 99.10, or where an income tax has been paid to another municipality or to a Joint Economic Development District, credit for the amount so paid in accordance with and pursuant to Sections 99.09, 99.10, and 99.18 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.

(E) A taxpayer who has overpaid the amount of tax to which the city is entitled under the provisions of this chapter may have the overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof, shall be refunded, provided no additional taxes, refunds, or credits of less than \$1.01 shall be collected, refunded or granted.

(F) Where necessary an amended return shall 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 of Sections 99.14 and 99.18. Such amended returns shall be on a form obtainable, upon request, from

the Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(G) Within three months from the final determination of any federal tax liability affecting the taxpayer's city tax liability, such taxpayer shall make and file an amended city return showing gross income or gross receipts subject to the city tax based on such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(H) Retirees having no taxable income for municipal income tax purposes shall be exempt from these filing requirements and any subsequent penalties upon the filing of an Exemption Certificate with the Tax Commissioner in the manner prescribed. Such Exemption Certificate shall be in effect until that time in which the retiree registrant receives taxable income for municipal income tax purposes, at which time the retiree shall be required to comply with the provisions of this chapter, including the filing requirements.

99.09 COLLECTION AT SOURCE

(A) Each employer shall, at the time of the payment of any salary, income, wage, commission, or other compensation paid on and after January 1, 1963, deduct the tax at its then applicable percentage on salaries, wages, commissions, other compensation and other income due by the employer to his employees who are subject to the provisions of this chapter. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent. Each employer shall, on or before the fifteenth date of each month, make a return in such detail as the Tax Commissioner may prescribe, and pay to the Commissioner the tax withheld during the preceding month. However, the Commissioner may, when authorized by rule of general application adopted by the Board of Review, approve the filing of returns and payment of the tax withheld on a quarterly basis. In such case the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30, and December 31, make a return and pay to the Commissioner the tax withheld during the preceding calendar quarter. Effective August 1, 2001, payments of withheld tax shall be deposited electronically, unless exemption from this requirement is given by the Commissioner.

(B) 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.

(C) The employer, in collecting the tax, shall be deemed to hold it until payment is made by the employer to the city, as a trustee for the benefit of the city and any tax collected by the employer from his employees shall, until it is paid to the city, be deemed a trust fund in the hands of the employer.

(D) On or before January 31 of each year beginning with the year 1964, each employer shall file a withholding return in a form prescribed by the Commissioner, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the rules and regulations adopted by the Commissioner.

(E) On or before February 28 of each year, each person who files forms 1099-MISC with the Internal Revenue Service must also file copies of such returns with the Income Tax Division.

(F) 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.

(G) 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 Commissioner 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 Commissioner. Employers for limited engagements includes:

(1) Any person who employs or contracts for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, or theatrical performance; or

(2) 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.

(H) 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 Chapter 99 of the Akron Code of Ordinances shall be withheld by the contractor pursuant to Section 99.09 and further agrees to supply the Income Tax division with a list of its subcontractors' names, addresses, Social Security or Federal ID numbers, and a listing of the service each subcontractor will perform, prior to beginning contract work.

(I) An individual, association, C corporation or other entity engaged in the business of construction work and who will perform construction work in the city of Akron shall obtain a tax account number, issued by the Income Tax Division, prior to beginning construction work. The Income Tax Division shall also issue a Certificate of Registration. Failure to possess a valid Certificate shall be cause for suspension of work by the Division of Building Inspection, the Plans and Permits Center, the Engineering Bureau and/or the Income Tax Division prior to the construction work commencing and/or during the performance of the construction work. Proof of possession of a valid Certificate shall be necessary to commence or resume suspended construction work. The Certificate of Registration may be revoked by the Income Tax Division for failure by the contractor to remain current in the filing of required tax documents, for failure to remain current in the required payment of taxes, and for failure to comply with Section 99.09 of this chapter. The contractor further agrees to supply the Income Tax Division with a list of its subcontractors' names, addresses, Social Security or Federal ID numbers, and a listing of the service each subcontractor will perform, prior to beginning construction work.

99.10 DECLARATIONS

(A) Every person who anticipates any taxable income which is not subject to collection at the source as provided by Section 99.09, or who engages in any business, profession, enterprise, or activity subject to the tax imposed by Section 99.03, shall file a declaration setting forth such estimated income or the estimated profit from such business activity together with the estimated tax due thereon.

(B) The declaration shall be filed on or before April 30 of each year during the life of this chapter.

(C) Taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period. Such declaration shall be filed on a form furnished by or obtainable from the Tax Commissioner, or on other forms deemed acceptable by the Commissioner.

(D) In accordance with the provisions of Section 99.18, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality or to a Joint Economic Development District.

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

(F) The estimated tax to be paid the city shall be accompanied by a payment of at least one-fourth of the declaration of estimated tax and an equal amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the taxable year.

(G) If 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.

(H) On or before the last day of the fourth month of the year following 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 Section 99.08.

99.11 TAX COMMISSIONER

(A) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter, in the manner prescribed herein, to keep an accurate record thereof and to report all monies so received.

(B) It shall be the duty of the Tax Commissioner to enforce payment of all taxes owing the City of Akron, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration an/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(C) The Tax Commissioner is charged with the enforcement of the provisions of this chapter, and is empowered, subject to the approval of the Board of Review,

to adopt, promulgate and 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.

(D) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner 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. Such assessment shall be collected in accordance with the rules and regulations as set forth by the Tax Commissioner and approved by the Board of Review.

(E) When an application for deferred payment of tax due is filed by a taxpayer, partial payments of unpaid taxes may be authorized for a period not to exceed six months when the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when such deferred payments are the best means of accomplishing the intent of this chapter. Any extension beyond six months shall only be granted by the Tax Commissioner, and only after written application by the taxpayer. Denial of such an extension by the Tax Commissioner may be appealed to the Board of Review as set forth in Section 99.16 of this chapter.

99.12 INVESTIGATIONS

(A) The Tax Commissioner, or any authorized employee, is authorized to examine the books, papers, records, and State and federal income tax returns of any employer or of any taxpayer or person subject to, or believed to be subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made or, if no return has been made, to ascertain the tax due under this chapter. Every employer, supposed employer, taxpayer, or supposed taxpayer is directed and required to furnish, within ten days following a written request by the Commissioner or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are authorized.

(B) The Commissioner is 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 State 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 the inquiry.

(C) The refusal to produce books, papers, records, and State and federal income tax returns, or the refusal to submit to examination by any employer or person subject or presumed to be subject to the tax 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 any order or subpoena of the Commissioner authorized shall be deemed a violation of this chapter, punishable as provided in Section 99.99.

(D) Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be

confidential and no person shall divulge such information except for official tax purposes, or except in accordance with proper judicial order or upon receipt of a waiver signed by the individual who has submitted the return.

(E) Everyone required to file a return shall retain all records necessary to compute his tax liability or justify his Exemption Certificate for a period of six years from the date his return was filed.

99.13 INTEREST AND PENALTIES

(A) All taxes imposed and all monies 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 1% per month or fraction thereof.

(B) In addition to interest as provided in (A) above, penalties are imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld, 1% per month or fraction thereof, or 5% of the total tax due, whichever is greater.

(2) For failure to remit taxes withheld from employees, 3% per month or fraction thereof, or 10% of the total tax due, whichever is greater.

(3) For failure to electronically remit taxes withheld, as prescribed in Section 99.09(A), \$50.00 for the first instance and \$100.00 for each subsequent instance, unless exempted by the Commissioner.

(4) For failure to file income tax returns, \$50.00 for the first instance and \$100.00 for each subsequent instance.

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

(D) At the Commissioner's discretion, the Commissioner may abate up to \$5,000 of penalty or interest, or both. The Commissioner may abate penalty or interest or both in excess of \$5,000 only upon written approval of the Director of Finance. The Board of Review may abate penalty or interest, or both, in any amount or on an appeal from the refusal of the Commissioner or the Director of Finance to recommend abatement of penalty and interest.

(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 for 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.

99.14 COLLECTION OF UNPAID TAXES; REFUNDS

(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 25% or more 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. However, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Commissioner shall be one year from the time of the final determination of the federal tax liability.

(B) Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a C corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest 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.

(C) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on 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.

(D) Additional amounts of less than \$1.01 shall not be collected, refunded or credited.

99.15 VIOLATIONS

(A) No person shall:

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

(2) Make any incomplete, false, or fraudulent return;

(3) Fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this chapter;

(4) Fail, neglect, or refuse to withhold the tax from his employees or remit such withholdings to the Tax Commissioner;

(5) Refuse to permit the Commissioner or any duly authorized agent or employee to examine his books, records, papers, and State and federal income tax returns relating to the income or net profits of a taxpayer.

(6) Fail to appear before the Commissioner and to produce his books, records, papers, or State or federal income tax returns relating to the income or net profits of a taxpayer on order or subpoena of the Commissioner;

(7) Refuse to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer;

(8) Fail to comply with the provisions of this chapter or any order or subpoena of the Commissioner authorized hereby;

(9) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;

(10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total salaries, wages, commissions, other compensation and other income paid and city tax withheld, or knowingly give the Commissioner false information; or

(11) Evade or attempt to evade in any manner the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(B) Anyone who violates any part of Section 99.15(A), shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense.

(C) All prosecutions under this section shall be commenced within the period stipulated in Ohio Revised Code 718.12.

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

99.16 BOARD OF REVIEW

(A) A Board of Review of five members is created consisting of the Mayor, the Director of Finance, the Director of Law, and two Akron residents not otherwise employed by the city, who shall be appointed by the Mayor with the consent of Council for initial terms of one year and two years respectively, and thereafter for two-year terms. Such public members shall not be adherents to the same political party and they shall be paid such per diem compensation as Council shall fix. All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner of Taxation under the authority conferred by this chapter, must be approved by the Board before the same become effective. After such approval, such rules, regulations, amendments, and changes shall be filed with the Clerk of Council and shall be open to public inspection.

(B) Any person dissatisfied with any ruling or decision of the Commissioner, which is made under the authority conferred by this chapter, may appeal therefrom to the Board within 30 days from the announcement of such ruling or decision by the Commissioner, provided the taxpayer making the appeal has filed with the city the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Tax Commissioner, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal. Any person dissatisfied with any ruling

or decision of the Board may appeal therefrom to a court of competent jurisdiction, or to the State Board of Tax Appeals by perfecting the appeal as defined in Ohio Revised Code 5717.011, within 30 days from the filing of such ruling or decision.

(C) The Board shall elect, from its members, a Chairman, a Vice-Chairman and a Secretary. A majority of the members shall constitute a quorum. Any member other than a public member may appoint a deputy to act for him at meeting of the Board. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings on appeal by the Board shall be conducted privately, unless a public hearing is requested by the taxpayer, and the provisions of Section 99.12 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.

99.17 ALLOCATION OF FUNDS

The funds collected under the provisions of this chapter shall be paid into the Income Tax Fund and applied to the following purposes:

(A) Administration. Such part thereof as is necessary to defray all costs of collecting the tax levied by this chapter and the cost of administering and enforcing the provisions hereof shall be first allocated to the Income Tax Administration Fund.

(B) Other Purposes. The net proceeds of the income tax levied at the rate of 2%, or the applicable rate at the time the tax is imposed pursuant to Section 86d of the Charter, remaining after meeting the expenses as provided in division (A) shall be applied in conformance with such Section 86d. Income tax proceeds allocated to capital improvements shall include the payment of principal and of interest on general indebtedness incurred for capital improvements or as otherwise provided by the Charter.

99.18 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR TO A JOINT ECONOMIC DEVELOPMENT DISTRICT

(A) Where a resident of the city is subject to a municipal income tax in another municipality or in a Joint Economic Development District, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

(B) Every taxpayer who resides in the city but receives net profits, salaries, wages, commissions, 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 the city, if it is made to appear that he or such business entity has paid a municipal or a Joint Economic Development District income tax on or with respect to the same income taxable under this chapter to another municipality or to a Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter in the amount so paid by him, in his behalf or by such business entity, to the other municipality or to a Joint Economic Development District. 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. In addition, the credit shall not exceed the tax assessed by this chapter on income earned in such other municipality or municipalities or Joint Economic Development District(s) where the tax is paid. Further, the credit given for taxes paid to another municipality or JEDD shall not exceed the actual tax imposed by that municipality or JEDD.

(C) A claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may, by regulation, provide.

99.19 REQUIREMENTS FOR JOINT ECONOMIC DEVELOPMENT DISTRICTS

Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District contract or specifically amends this chapter.

99.20 INCOME TAX FOR COMMUNITY LEARNING CENTERS

In addition to the tax imposed pursuant to Section 99.03, an annual tax for the purposes set forth in this section is imposed on and after January 1, 2004 through December 31, 2033, at the rate of 0.25% per year, on all taxable income. Notwithstanding Section 99.17, the funds collected under the provisions of this section shall be paid into a separate fund, the Community Learning Center Income Tax Fund, and applied solely for the purpose of acquiring, constructing, renovating, repairing, enlarging, adding to, reconstructing, maintaining, equipping, furnishing, acquiring interests in real property in connection therewith, improving the sites thereof, and otherwise improving community centers, in accordance with Section 755.16 of the Revised Code, and paying debt service and other costs relating to the financing thereof. Such community centers, hereinafter referred to as Community Learning Centers, are to be used for governmental, civic, or educational operations or recreational activities or such other purposes as permitted by law. The City is authorized to enter into cooperative agreements with the Akron City School District to provide for the Community Learning Centers within the City. A cooperative agreement may provide for the term of the agreement, the applicable allocation of the income tax proceeds, the transfer of funds from the City, which may be by grant, loan, payment under such agreement, or otherwise, the ownership, use, operation and maintenance of the Community Learning Centers, cooperation with State commissions or agencies in the financing of the Community Learning Centers, and other provisions as determined by the parties thereto. In the event that other funding for Community Learning Centers or related educational facilities becomes available to the Akron City School District for the specific purpose of providing Community Learning Centers or related purposes from the County through sales tax proceeds or otherwise or from the State or Federal government beyond the amount of the State funds currently allocated for permanent improvements to the Akron City School District, the City by ordinance shall, on a biennial basis, reduce the income tax rate provided in this section from .25% to a percentage that will generate tax proceeds in an amount equal to the difference between the amount of proceeds that would be generated from the .25% rate and

the amount of funds available for such purpose from another source, subject to debt service requirements on indebtedness incurred by the City for that purpose. The Director of Finance shall establish a procedure for the timely adjustment of the income tax rate pursuant to this section to provide for the efficient and cost effective administration of that tax.

99.99 PENALTY

(A) (1) Whoever violates or fails to comply with any of the provisions of Section 99.01 through 99.18 for which no penalty is otherwise provided is guilty of a misdemeanor of the third degree.

(2) In addition to the penalty provided in (A)(1) above, any employee of the city who violates Section 99.12 (D) relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. Each disclosure of information in violation of Section 99.12 (D) shall constitute a separate offense. ('75 Code, Sections 802.99, 890.99) (Ord. 1298-1962, passed 11-13-62)(Penalty, see Section 130.99)

(B) Whoever violates or fails to comply with any of the provisions of Sections 99.30 through 99.44 for which no penalty is otherwise provided is guilty of a misdemeanor of the third degree. ('75 Code, Sections 802.99, 892.99)(Penalty, see Section 130.99)