

CHAPTER 111
Municipal Income Tax

EDITOR'S NOTE: Ordinance 25-1971, passed May 25, 1971, authorizes the Mayor and Council Clerk to execute a membership agreement of the Regional Council of Governments for the purpose of participation in the Municipal Tax Collection Agency.

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PURPOSE

111.0101 PURPOSE AND LEVY OF TAX.

To provide funds for the purposes of general municipal functions of the Municipality there is hereby levied a tax on all salaries, wages, commissions, lottery winnings of one million dollars (\$1,000,000) or more and other compensations, and on net profits as hereinafter provided.
(Ord. 5-2004. Passed 2-10-04.)

DEFINITIONS

111.0301 DEFINITIONS GENERALLY.

For the purposes of this chapter the terms, phrases, words and their derivatives shall have the meanings as set forth in Sections 111.0302 through 111.0320. The singular shall include the plural, and the masculine shall include the feminine and the neuter.
(Ord. 61-1966. Passed 12-27-66.)

111.0302 ADMINISTRATOR.

"Administrator" means the individual designated, to be appointed by the Mayor, subject to confirmation by a majority of the members of Council, to administer and enforce the provisions of this chapter.
(Ord. 61-1966. Passed 12-27-66.)

111.0303 ASSOCIATION.

"Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons. (Ord. 61-1966. Passed 12-27-66.)

111.0304 BOARD OF REVIEW.

"Board of Review" means the Board created by and constituted as provided in Section 111.2501.
(Ord. 61-1966. Passed 12-27-66.)

111.0305 BUSINESS.

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.
(Ord. 61-1966. Passed 12-27-66.)

111.0306 CORPORATION.

"Corporation" means a corporation or joint-stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency. (Ord. 61-1966. Passed 12-27-66.)

111.0307 EMPLOYEE.

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer. (Ord. 61-1966. Passed 12-27-66.)

111.0308 EMPLOYER.

"Employer" means an individual, partnership, association, corporation, government body, unit or agency, or other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
(Ord. 61-1966. Passed 12-27-66.)

111.0309 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 61-1966. Passed 12-27-66.)

111.0310 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatever.
(Ord. 61-1966. Passed 12-27-66.)

111.0311 NET PROFITS.

"Net profits" means a 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.

(Ord. 61-1966. Passed 12-27-66.)

111.0312 NONRESIDENT.

"Nonresident" means an individual domiciled outside the Municipality of Highland Heights, Ohio.

(Ord. 61-1966. Passed 12-27-66.)

111.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality of Highland Heights.

(Ord. 61-1966. Passed 12-27-66.)

111.0314 PERSON.

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof. (Ord. 61-1966. Passed 12-27-66.)

111.0315 PLACE OF BUSINESS.

"Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance. (Ord. 61-1966. Passed 12-27-66.)

111.0316 RESIDENT.

"Resident" means an individual domiciled in the Municipality of Highland Heights. (Ord. 61-1966. Passed 12-27-66.)

111.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality of Highland Heights.
(Ord. 61-1966. Passed 12-27-66.)

111.0318 TAXABLE INCOME.

"Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter as well as lottery winnings of one million dollars (\$1,000,000) or more.
(Ord. 5-2004. Passed 2-10-04.)

111.0319 TAXABLE YEAR.

"Taxable year" means the calendar year, or the fiscal year, upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.
(Ord. 61-1966. Passed 12-27-66.)

111.0320 TAXPAYER.

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity required hereunder to file a return or pay a tax.
(Ord. 61-1966. Passed 12-27-66.)

IMPOSITION OF INCOME TAX

111.0501 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 111.0101 hereof shall be imposed on and after January 1, 2007, at the rate of two percent (2%) per annum upon the following:
(Ord. 15-2006. Passed 11-7-06.)

(a) On all salaries, wages, commissions, lottery winnings of one million dollars (\$1,000,000) or more, and other compensation earned on and after January 1, 1972, by residents of the Municipality of Highland Heights.

(b) On all salaries, wages, commissions and other compensation earned on and after January 1, 1972, by nonresidents of the Municipality for work done or services performed or rendered within the Municipality of Highland Heights. (Ord. 5-2004. Passed 2-10-04.)

(c) (1) On the portion attributable to the Municipality on the net profits earned on and after January 1, 1972, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality of Highland Heights.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1972, of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality of Highland Heights and not levied against such unincorporated business entity.

(d) (1) On the portion attributable to the Municipality of the net profits earned on and after January 1, 1972, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality of Highland Heights.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1972, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality of Highland Heights, Ohio, and not levied against such unincorporated business entity by the Municipality.

(e) On the portion attributable to the Municipality of the net profits earned on and after January 1, 1972, of all corporations derived from the 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 of Highland Heights. (Ord. 51-1971. Passed 11-23-71.)

111.0502 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 on and after July 1, 1968. (Ord. 36-1968. Passed 7-9-68.)

DETERMINATION OF ALLOCATION OF TAX

111.0701 METHOD OF DETERMINATION.

In the taxation of income which is subject to the Municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Municipality shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Municipality, then only such portion shall be considered as having a taxable situs in the Municipality of Highland Heights for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Municipality, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

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

As used in the preceding paragraph, "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.

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

(c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Municipality 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. (Ord. 61-1966. Passed 12-27-66.)

111.0702 SALES MADE IN THE MUNICIPALITY.

As used in Section 111.0701(c), "sales made in the Municipality" means:

(a) All sales of tangible personal property which is delivered within the Municipality of Highland Heights regardless of where title passes if shipped or delivered from a stock of goods within the Municipality.

(b) All sales of tangible personal property which is delivered within the Municipality of Highland Heights regardless of where title passes, even though transported from a point outside the Municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion.

(c) All sales of tangible personal property which is shipped from a place within the Municipality of Highland Heights to purchasers outside of the Municipality 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. (Ord. 61-1966. Passed 12-27-66.)

111.0703 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 111.0701(a), (b) and (c), or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 111.0701.

A factor is applicable even though it may be allocable entirely in or outside the Municipality of Highland Heights.
(Ord. 61-1966. Passed 12-27-66.)

111.0704 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 111.0501(c), (d) and (e), only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided, further, that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds such two hundred fifty dollars (\$250.00) per month; and provided, further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
(Ord. 51-1971. Passed 11-23-71.)

111.0705 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the Municipality of Highland Heights may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the Municipality of Highland Heights in the same manner as provided herein for allocating net profits to the Municipality.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
(Ord. 61-1966. Passed 12-27-66.)

EXEMPTIONS

111.0901 SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.

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

(d) Receipts from seasonal 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.

(e) Alimony received.

(f) Personal earnings of any natural person under eighteen years of age.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(h) Interest, dividends and other revenue from intangible property.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which the Municipality 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).

(j) Salaries, wages, commissions and other compensation 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.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Municipality of Highland Heights to impose net income taxes.
(Ord. 61-1966. Passed 12-27-66.)

RETURNS

111.1101 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter and on or before April 30 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.
(Ord. 51-1971. Passed 11-23-71.)

111.1102 FORM AND CONTENT OF RETURN.

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

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

(b) The amount of the tax imposed by this chapter on such earnings and profits, and

(c) Such other pertinent statements, information returns or other information as the Administrator may require.
(Ord. 61-1966. Passed 12-27-66.)

111.1103 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of 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 or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. (Ord. 61-1966. Passed 12-27-66.)

111.1104 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(b) 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 the Municipality of Highland Heights 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. If the Administrator finds that net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock

ownership, 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 Municipality.

(Ord. 61-1966. Passed 12-27-66.)

111.1105 AMENDED RETURNS.

(a) Where 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, limitations, or both, contained in Sections 111.1701, 111.1702 and 111.1703 and Sections 111.1901, 111.1902 and 111.1903. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Highland Heights tax liability, such taxpayer shall make and file an amended Highland Heights return showing income subject to the Highland Heights 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. 61-1966. Passed 12-27-66.)

PAYMENT OF TAX

111.1301 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that:

(1) Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 111.1302 or,

(2) Where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 111.1303 or,

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 111.1902, 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 such return.

(b) A taxpayer who has overpaid the amount of tax to which the City of Highland Heights is entitled under the provisions of this 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 or refunds of less than one dollar (\$1.00) shall be collected or refunded.
(Ord. 51-1971. Passed 11-23-71.)

111.1302 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City of Highland Heights shall deduct, at the time of payment of such salary, wages, commission or other compensation, the tax of two percent (2.0%%) per annum of the gross salaries, wages, commissions or other compensation due by the employer to such employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00) the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the 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.

(c) Such employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the City of Highland Heights as a trustee for the benefit of the City of Highland Heights, and any such tax collected by such employer from his employees shall, until the same is paid to the City of Highland Heights, be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City of Highland Heights, but such employee shall be subject to all of the requirements of this chapter.

(e) Every manager shall be deemed to be a trustee of the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding shall be deemed to be trust funds.

Every manager shall be liable directly to the City for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld shall be considered paid to the City, whether or not the employer actually remits the tax to the City, for purposes of determining employee payments or credits.

(f) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(g) No change in structure by an employer, including a fundamental change, shall discharge its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes. (Ord. 9-2007. Passed 7-10-07.)

111.13021 FUNDAMENTAL CHANGES; SUCCESSOR EMPLOYERS.

If any employer who or which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. A successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalties which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager shall be jointly and severally liable for the payment of such taxes, interest and penalties. (Ord. 9-2007. Passed 7-10-07.)

111.1303 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned during the current tax year, together with the estimated tax due thereon, less the amount withheld within the City of Highland Heights, and less the tax credit allowed in Section 111.1902, unless the entire taxable income is subject to withholding within the City of Highland Heights, pursuant to Section 111.1302. If the estimated tax for the current year, less the tax withheld and less such tax credit, amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required. (Ord. 78-1973. Passed 12-10-73.)

111.1304 FILING OF DECLARATION.

(a) The declaration required by Section 111.1303 shall be filed on or before April 30 of each year during the effective period set forth in Section 111.0502 or within four months of the date the taxpayer becomes subject to the tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
(Ord. 61-1966. Passed 12-27-66.)

111.1305 FORM OF DECLARATION.

(a) The declaration required by Section 111.1303 shall be filed upon a form furnished by or obtainable from the Administrator. As provided in Section 111.1303, credit shall be taken for Highland Heights tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 111.1902.

(b) 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.
(Ord. 51-1971. Passed 11-23-71.)

111.1306 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City of Highland Heights 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 last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. (Ord. 77-1973. Passed 12-10-73.)

111.1307 ANNUAL RETURN.

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 City of Highland Heights shall be paid therewith in accordance with the provisions of Section 111.1301. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such

declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax. (Ord. 51-1971. Passed 11-23-71.)

111.1308 EXTENSION OF FILING TIME.

The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this chapter for a period not to exceed six months beyond the original required date. (Ord. 61-1966. Passed 12-27-66.)

INTEREST AND PENALTIES

111.1501 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of six percent per annum. (Ord. 51-1971. Passed 11-23-71.)

111.1502 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 111.1501, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent per annum, but not less than five dollars (\$5.00).

(b) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof but accumulated penalty shall not exceed fifty percent upon any unpaid amount and shall not be less than five dollars (\$5.00) (Ord. 51-1971. Passed 11-23-71.)

111.1503 EXCEPTIONS.

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 against the taxpayer by the Administrator resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability. (Ord. 61-1966. Passed 12-27-66.)

111.1504 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 51-1971. Passed 11-23-71.)

111.1505 VIOLATIONS AND PENALTY.

Any person who shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter, or,
- (b) Make any incomplete, false or fraudulent return; or
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter or
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) Refuse 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
- (f) Fail 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
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (i) 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; or
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Municipality of Highland Heights tax withheld, or to knowingly give the Administrator false information; or

(k) Attempt to do anything whatever 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 five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.
(Ord. 61-1966. Passed 12-27-66.)

111.1506 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within five 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 ten years from the date the return was due or the date the false or fraudulent return was filed.
(Ord. 61-1966. Passed 12-27-66.)

111.1507 FAILURE TO PROCURE FORMS NOT EXCUSE.

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. 61-1966. Passed 12-27-66.)

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

111.1701 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

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, of omission of a substantial portion of income subject to this tax, or of 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.
(Ord. 61-1966. Passed 12-27-66.)

111.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.

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 the final determination of the Federal tax liability, whichever is later.
(Ord. 61-1966. Passed 12-27-66.)

111.1703 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 61-1966. Passed 12-27-66.)

TAXPAYER RELIEF AND RECIPROCITY PROVISIONS

111.1901 NONRESIDENT TAXPAYERS.

(EDITOR'S NOTE: Section 111.1901 was repealed by Ordinance 51-1971,
passed November 23, 1971.)

111.1902 TAX CREDIT.

(a) When the taxable income of a resident of Highland Heights is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100 percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or Highland Heights by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Highland Heights resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he 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. 51-1971. Passed 11-23-71.)

111.1903 CLAIM FOR CREDIT.

(EDITOR'S NOTE: Section 111.1903 was repealed by Ordinance 51-1971,
passed November 23, 1971.)

DISBURSEMENTS OF RECEIPTS OF TAX COLLECTION

111.2101 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(Ord. 61-1966. Passed 12-27-66.)

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited as follows: Effective January 1, 2007, and retroactive thereto, the Director of Finance is hereby directed to deposit that sum equal to ninety-two and one-half percent (92.5%) of the proceeds of the Municipal income tax collected by the City of Highland Heights into the General Fund and to deposit that sum equal to seven and one-half percent (7.5%) of the proceeds of the Municipal income tax collected by the City of Highland Heights, in the General Bond Retirement Fund or the Municipal Center Fund.

(Ord. 27-2006. Passed 1-23-07.)

DUTIES AND AUTHORITY OF ADMINISTRATOR

111.2301 DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report all moneys so received.

(Ord. 61-1966. Passed 12-27-66.)

111.2302 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the Municipality of Highland Heights, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof. (Ord. 61-1966. Passed 12-27-66.)

111.2303 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

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 re-examination and correction of returns.

(Ord. 61-1966. Passed 12-27-66.)

111.2304 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

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 unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 111.1701 and 111.1505 shall apply.
(Ord. 61-1966. Passed 12-27-66.)

111.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

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 of Highland Heights from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. (Ord. 61-1966. Passed 12-27-66.)

111.2306 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or 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, facilities and opportunity for making such examinations and investigations as are hereby authorized.
(Ord. 61-1966. Passed 12-27-66.)

111.2307 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

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 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. (Ord. 61-1966. Passed 12-27-66.)

111.2308 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer of persons subject or presumed to be subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter punishable as provided in Section 111.1505.

(Passed 61-1966. Passed 12-27-66.)

111.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

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. Any person divulging such information in violation of this section shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(Ord. 61-1966. Passed 12-27-66.)

111.2310 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

(Ord. 61-1966. Passed 12-27-66.)

111.2311 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Municipality of Highland Heights having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 25-1971, which Council has organized a municipal tax collection agency known as the "Regional Income Tax Agency," the Board of Trustees of the Regional Income Tax Agency is hereby authorized to administer and enforce the provisions of this chapter as the agent of the Municipality, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of the Agency through the Administrator of the Agency. Provided,

however, the Administrator of the Agency shall have no authority to abate penalties or interest provided for in Sections 111.1501 and 111.1502. (Ord. 51-1971. Passed 11-23-71.)

BOARD OF REVIEW

111.2501 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the fiscal officer of Highland Heights and two electors of the Municipality, to be appointed by the Mayor and confirmed by a majority of the members of Council, is hereby created. Should the fiscal officer of the City be appointed and confirmed as the Administrator, the Board of Review shall consist of three electors of the Municipality, so appointed and confirmed. Elector members shall be appointed for a term of one year. Where three electors have been appointed to the Board of Review, by reason of the fiscal officer's service as Administrator, and the fiscal officer ceases to serve as Administrator during the term of such electors, the fiscal officer shall not serve as a member of the Board of Review until the expiration of such term or until a vacancy is created in the Board of Review by resignation or otherwise. Elector members of the Board of Review may hold other elected or appointed offices in the Municipality, provided, however, that the Administrator may not serve as a member of the Board of Review.

(Ord. 3-1974. Passed 1-22-74.)

111.2502 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

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 become 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.

(Ord. 61-1966, Passed 12-27-66.)

111.2503 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 61-1966. Passed 12-27-66.)

OTHER PROVISIONS

111.2701 DECLARATION OF LEGISLATIVE INTENT.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 61-1966. Passed 12-27-66.)

111.2702 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 111.1701, 111.1702, 111.1703, 111.1505, 111.1506, and 111.1507.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 111.1101 and 111.1302 as though the same were continuing. (Ord. 61-1966. Passed 12-27-66.)