

**ORDINANCE NO. 36-05**

**AN ORDINANCE TO PROVIDE FOR THE CONTINUED IMPOSITION OF THE INCOME TAX AND OTHER MATTERS.**

**WHEREAS**, the Council of the City of Dover desires to update and improve the wording throughout Ordinance No. 78-77 , known as the “Dover City Income Tax Ordinance,” and Resolution No. 22-77 adopting rules and regulations pertaining to the collection, administration and enforcement of the Income Tax Ordinance

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DOVER, STATE OF OHIO:**

**I.**

That in order to provide for the more efficient assessment, collection, and administration of the City of Dover Income Tax, implemented with the passage of Ordinance No. 78-77, and as supplemented by passage of Resolution No. 22-77, the Income Tax Ordinance of the City of Dover, and all applicable existing regulations relating thereto, are hereby amended to read as follows:

Dover City Income Tax Ordinance No. 36-05

- Section 1: Purpose.
- Section 2: Definitions.
- Section 3: Imposition of tax.
- Section 4: Effective period.
- Section 5: Return and payment of tax.
- Section 6: Collection at source.
- Section 7: Declarations.
- Section 8: Appointment and duties of Tax Administrator.
- Section 9: Investigative power of City Auditor; penalty for divulging confidential information.
- Section 10: Interest and penalties.
- Section 11: Collection of unpaid taxes and refunds of overpayments.
- Section 12: Violations and penalties.
- Section 13: Board of Review.
- Section 14: Credit for tax paid to another municipality of Joint Economic Development District.
- Section 15: Saving clause.
- Section 16: Allocation of funds.
- Section 17: Authority to contract for the central collection of tax.

Section 18: Assignment of duties and authority of tax administrator.

**SECTION 1: PURPOSE.**

To provide funds for municipal purposes there shall be and is hereby levied a tax on qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.

**SECTION 2: DEFINITIONS.**

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

1. “Adjusted federal taxable income” means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

a. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;

b. Add an amount equal to five percent (5%) of intangible income deducted under division (A)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

c. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

d.

(i) Except as provided in division (A)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

- (ii) Division (A)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- e. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- f. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- g. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
  - (i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
  - (ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (A)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this ordinance shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

2. "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
3. "Board of Review" means the Board created by and constituted as provided for in Section 13.

4. "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
5. "City Auditor" means the duly elected or appointed Auditor for the City of Dover, and all designated agents of said public officer, including but not limited to the Dover City Tax Administrator.
6. "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.
7. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
8. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.
9. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profits, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
10. "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.
11. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
12. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
13. "Gross receipts" means total income of taxpayers from whatever source derived.
14. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive

shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

15. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Ordinance 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, 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.
16. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
17. "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.
18. "Joint Economic Development District" means districts crated under the Ohio Revised Code sections 715.70 through 715.83, as amended from time to time.
19. "Limited liability company" means a limited liability company formed under Ordinance 1705 of the Ohio Revised Code or under the laws of another state.
20. "Municipality" means the City of Dover.
21. "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on schedule C, schedule E, or schedule F.
22. "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
23. "Nonresident" means an individual domiciled outside the Municipality.
24. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.

25. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
26. "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.
27. "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
28. "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
29. "Pass-through entity" means a partnership, Limited Liability Company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
30. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.
31. "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.
32. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
33. "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

34. "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.
35. "Resident" means an individual domiciled in the Municipality.
36. "Resident incorporated business entity" means an incorporated business entity whose office; place or operations or business situs is within the Municipality.
37. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
38. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
39. "Schedule A" means Internal Revenue Service schedule A filed by a taxpayer pursuant to the Internal Revenue Code.
40. "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
41. "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
42. "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
43. "S corporation" means a corporation that has made an election under Subchapter S of Title 26 of the Internal Revenue Code for its taxable year.
44. "Tax Administrator" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Tax Administrator.
45. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Ordinance.

46. "Taxable year" means the corresponding tax-reporting period as prescribed for the taxpayer under the Internal Revenue Code.
  47. "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
  48. "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subordination S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subordination S subsidiary.
- B. The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

### **SECTION 3: IMPOSITION OF TAX.**

- A. Basis of Imposition. Subject to provisions of this Dover City Income Tax Ordinance, an annual tax shall be, and is hereby, levied at the rate of one per cent (1%) per annum upon the following:
1. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;
  2. On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the Municipality;
  3. On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
  4. On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not

such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

5. On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
6. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and/or any other Form required by the Internal Revenue service that reports winnings from gambling, prizes and lottery winnings.

B. Businesses Both In and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Ordinance 5745, of the Ohio Revised Code. Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
  - a. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation 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.

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

- b. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation 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 municipal corporation under section 718.011 of the Ohio Revised Code;

- c. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- d. Adding together the percentages determined in accordance with subsections B.1.a.b. and c. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

- .1 A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

- .2 Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Administrator, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

C. As used in division (B) of this section, "sales made in a municipal corporation" mean:

- 1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
- 2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
- 3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation 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.

D. Residents of Dover are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in Dover, and on all properties

located outside Dover, the net amount of which is not subject to City income tax in said other community. In the case of residents of Dover, if the net income of properties located outside Dover is subject to City income tax in another community, then said net income will not be subject to City income tax in Dover. Non-residents of Dover shall be subject to taxation upon net income from rentals on all properties located in Dover.

E. Net Operating Loss (NOL).

1. The Municipality does not allow a net operating loss carryback or carryforward.

F. Consolidated Returns.

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

G. Exclusions.

The provisions of this Ordinance shall not be construed as levying an income tax upon the following:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
4. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
5. Alimony.
6. Compensation for damage to property by way of insurance or otherwise.

7. Interest and dividends from intangible property.
8. Military pay or allowances of active members of the Armed Forces of the United States and of active members of their reserve components, including the Ohio National Guard (ORC 718.01).
9. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
10. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
11. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
12. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
13. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
14. Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
15. Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Ordinance 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle

for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.

16. The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

17. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Ordinance 5745. of the Ohio Revised Code:

a. The income of an electric company or combined company;

b. The income of a telephone company.

As used in division (F)(17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.

18. An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a

corporation subject to the taxes imposed under Ordinance 5733. of the Ohio Revised Code.

19. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

#### **SECTION 4: EFFECTIVE PERIOD.**

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned and shall be levied with respect to the net profits of the businesses, professional or other activities earned from and after the effective date of this Tax Code.

#### **SECTION 5: RETURN AND PAYMENT OF TAX.**

- A. Each person, eighteen years of age or older, who engages in business or other activity or whose qualifying wage, commissions, other compensation, and other taxable income is subject to the tax imposed by this Tax Code, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this Tax Code, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Administrator may be accepted as the return required of any employee whose sole income, subject to tax under this Tax Code, is such qualifying wage, commissions, other compensation, and other taxable income.
- B. A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.
- C. The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator; or on a generic

form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

D. The return shall set forth:

1. The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and
2. The amount of the tax imposed by this Tax Code on such earnings and profits; and
3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Ordinance.

E. 1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

2. The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:

- a. fails to timely file the request; or
- b. fails to file a copy of the federal extension request, (if applicable); or
- c. owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or

- d. has failed to file any required income tax return, report, or other related document for a prior tax period.
3. The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

#### F. PAYMENTS WITH RETURNS.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due. However, credit shall be allowed for:
  - a. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 6; and
  - b. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 7; and
  - c. Credit to the extent allowed by Section 14 for tax paid to another municipality.
2. Subject to the limitations contained in Section 14 of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code 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) shall be collected or refunded.

#### G. AMENDED RETURNS.

1. 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 contained in Section 3. The Tax Administrator shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

H. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

#### **SECTION 6: COLLECTION AT SOURCE.**

- A. Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 3 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following such withholding, make a return and pay to the Tax Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed by the Tax Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.
- B. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

- C. 1. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
2. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D. So long as the taxes withheld by an employer for the Municipality during the measurement period are less than \$1,000 per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Tax Administrator. The Tax Administrator may revoke the approval of quarterly filing and payments whenever the Tax Administrator has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case; the employer must begin to file in accordance with this section.
- E. Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such tax, in fact, has been withheld.
- F. Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

- G. Withholding Return; List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee-included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28th following the end of such calendar year.
- H. In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated, as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28th following the end of such calendar year.
- I. Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

## **SECTION 7: DECLARATIONS.**

### **A. Requirement for Filing.**

Every person who anticipates any taxable income which is not subject to Section 6 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 3, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 6, such person need not file a declaration.

B. Dates for Filing.

1. Such declaration shall be filed on or before April 15 of each year during the life of this Ordinance, or on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following the date the taxpayer becomes subject to tax for the first time.
2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following the start of each fiscal year or period.

C. Forms; Credit for Tax Withheld or Paid Another Community.

1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Administrator or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 14, credit may be taken for tax to be withheld and remitted to another taxing municipality.
2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of not more than twenty-two and one-half percent (22.5%) of the estimated annual tax liability by April 30<sup>th</sup>, forty-five percent (45%) of the estimated annual tax liability by July 31<sup>st</sup>, sixty-seven and one-half percent (67.5%) of the estimated annual tax liability by October 31<sup>st</sup>, and ninety percent (90%) of the estimated annual tax liability by January 31<sup>st</sup>.
4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax liability by the return filing date, forty-five percent (45%) of the estimated annual tax liability by June 15<sup>th</sup>, sixty-seven and one-half percent (67.5%) of the estimated annual tax liability by September 15<sup>th</sup>, and ninety percent (90%) of the estimated annual tax liability by December 15<sup>th</sup>.

5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that 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.

E. Annual Return Required.

On or before the fifteenth day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 5.

**SECTION 8: APPOINTMENT AND DUTIES OF TAX ADMINISTRATOR.**

- A. 1. It shall be the duty of the Tax Administrator to collect and receive the tax imposed by this Ordinance in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.
2. It shall be the duty of the Tax Administrator to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- B. The Tax Administrator is hereby charged with the enforcement of the provisions of this Ordinance 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 Ordinance, including provisions for the re-examination and correction of returns.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due the Municipality from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

D. Subject to the consent of a majority of the Board of Review, the City Auditor shall have the power to compromise any liability imposed by this Tax Code. The City Auditor shall formulate a written policy concerning the compromise of liabilities as set forth herein. A copy of said written policy shall be kept on record, and open for public inspection, at the office of the Income Tax Administrator.

**SECTION 9: INVESTIGATIVE POWERS OF CITY AUDITOR;**  
**PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

- A. The City Auditor, or any of his or her authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the City Auditor believes is subject to, the provisions of this Ordinance for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this Ordinance. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the City Auditor, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.
- B. The City Auditor is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the City Auditor and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- C. The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the City Auditor authorized hereby, shall be deemed a violation of this Ordinance punishable as provided in Section 12.
- D. Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes, required to be withheld are paid.

- E. Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Ordinance shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Ordinance. The City Auditor of the municipal corporation may furnish copies of returns filed under this Ordinance to the Internal Revenue Service and to the State Tax Commissioner.
- F. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of up to five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.
- G. In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

**SECTION 10: INTEREST AND PENALTIES.**

- A. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid five (5) days after they become due shall bear interest on the amount of the unpaid tax at the rate of twelve percent per year.
- B. In addition to interest as provided in Paragraph A hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:
  - 1. For failure to pay taxes due, other than taxes withheld, ten percent (10%) of the tax due, or twenty-five dollars (\$25.00), whichever is greater.
  - 2. For failure to remit taxes withheld or required to be withheld from employees; ten percent (10%) of the tax due, or twenty-five dollars (\$25.00), whichever is greater.
  - 3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).
  - 4. Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.
- C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been filed in good faith and the tax

paid thereon within the time prescribed by the Tax Administrator; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.

- D. Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.
- E. Upon an appeal from the refusal of the Tax Administrator to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.
- F. If a check used to pay any tax obligation or associated penalty or interest is returned due to insufficient funds, then the taxpayer shall be assessed an additional penalty of twenty five dollars (\$25.00). Said penalty shall be in addition to any other assessments provided for herein.

**SECTION 11: COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

- A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Administrator 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 Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.
- B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) years after final determination of the federal tax liability, whichever is later.
- C. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is

refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio R.C. 5703.47.

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

## **SECTION 12: VIOLATIONS AND PENALTIES.**

A. Any person who commits any of the actions set forth in subsections 1 through 13 of the within section, as listed below, shall be guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred dollars (\$100.00); on a second offense within two years after the first offense, such person shall be guilty of a misdemeanor of the third degree 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; on each subsequent such offense within two years after the first offense such person shall be guilty of a misdemeanor of the third degree, and punished as provided for herein.

1. Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
2. Knowingly make an incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the City Auditor; or
5. Refuse to permit the City Auditor or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or
6. Fail to appear before the City Auditor and to produce his or his employer's books, records, papers or federal income tax returns upon order or subpoena of the City Auditor; or
7. Refuse to disclose to the City Auditor any information with respect to such person's or such person's employer's income or net profits; or

8. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
  9. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the City Auditor false information; or
  10. Fail to comply with the provisions of this Ordinance or any order or subpoena of the City Auditor; or
  11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 7; or
  12. Fail to cause the tax withheld from the qualifying wages of the employees pursuant to this Ordinance to be paid to the Municipality in accordance with the provisions of Section 6; or
  13. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance;
- B. All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.12.
- C. The failure of any employer or taxpayer 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.
- D. Statute of Limitations.
1. Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
  2. Prosecutions for an offense made punishable under this Ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12)

- E. The failure of any employer, taxpayer 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.
- F. The term "person" as used in this section shall, in addition to the meaning prescribed in Section 2, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

**SECTION 13: BOARD OF REVIEW.**

- A. A Board of Review, consisting of the elected or appointed members of Dover City Council, is hereby created and shall convene to serve as a board of tax appeals, and to hear appeals filed from determinations made by the office of the Dover City Auditor pertaining to income tax assessments, or delinquencies. Said Board of Review shall operate as a Board of Tax Appeals in accordance with the provisions and procedures specified in Ohio Revised Code Section 718.11. Any hearing by the Board shall be conducted privately and the provisions of Section 9 with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board on appeal.
- B. All rules and regulations and amendments or changes thereto which are adopted by the City Auditor under the authority conferred by this Ordinance, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and the Dover City Auditor's office, and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the City Auditor relating to income tax assessments and delinquencies, and, at the request of the taxpayer or city Auditor, is empowered to substitute alternate methods of apportionment.
- C. Whenever the City Auditor issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the City Auditor shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- D. Any person who is aggrieved by a decision by the City Auditor and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the

decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the City Auditor has issued the decision.

- E. The imposition of penalty and interest as prescribed in this ordinance shall not, in itself, be deemed a proper basis for an appeal.
- F. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
- G. The Board may affirm, reverse, or modify the City Auditor's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the City Auditor may appeal the Board's decision as provided in section 5717.011 of the Ohio Revised Code.
- H. Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code.
- I. To the extent that any of the provisions contained herein conflict with Ohio Revised Code Section 718.11, then the provisions and policies set forth in ORC section 718.11 shall control.

**SECTION 14: CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR JOINT ECONOMIC DEVELOPMENT DISTRICT.**

- A. Where a resident of the Municipality is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the other income greater than the tax imposed at the higher rate.
- B. Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work

done or services performed or rendered outside of the Municipality, if it appears that he has paid a municipal income tax on the same income taxable under this Ordinance to another municipality, shall be allowed a credit against the tax imposed by this Ordinance of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Ordinance on such income earned in such other municipality or municipalities where such tax is paid.

- C. The Municipality shall grant a credit against the tax imposed by this Ordinance to every taxpayer who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by this Ordinance on such income earned in such joint economic development zone or joint economic development district where such tax is paid.
- D. Except as provided in division (E) of this section, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.
- E. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in division (D) of this section shall be calculated using the tax rate in effect in the second municipal corporation.
- F. A claim for refund or credit under this section shall be made in such manner as the Tax Administrator may by regulation provide.

**SECTION 15: SAVING CLAUSE.**

This Ordinance shall not apply to any person, firm or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Ordinance, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Ordinance. It is hereby

declared to be the intention of Council of the Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein.

**SECTION 16: ALLOCATION OF FUNDS.**

The funds collected under the provisions of this Ordinance shall be deposited in the General Fund of the City of Dover, and such funds shall be disbursed in the following order:

- (a) Such part thereof as is necessary to defray all cost of collecting the tax and the cost of administering and enforcing the provisions thereof.
- (b) The balance of the net available income tax receipts shall be used to defray operating expenses of the City.

**SECTION 17: AUTHORITY TO CONTRACT FOR THE CENTRAL COLLECTION OF TAX.**

The administrator may, and is hereby authorized, subject to approval of Council, to enter into an agreement on behalf of the City of Dover with any other municipal corporation for the purpose of administering the income tax laws of the Village, as its agent, and of providing central collection facilities for the collection of the income tax on behalf of the City.

**SECTION 18: ASSIGNMENT OF DUTIES AND AUTHORITY OF TAX ADMINISTRATOR.**

In the event that the Dover City Council, on behalf of the City, enters into an agreement with any other municipal corporation to act as agent for the City for the purpose of administering the income tax laws of the City and of providing a central facility for the collection of the income tax, as provided in Section 18, then all or part of the duties and authority of the Tax Administrator and City Auditor may be assigned by such agreement to such other municipal corporation.

**II.**

That this ORDINANCE shall take effect and be in force immediately upon its passage and approval; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

**PASSED** this \_\_day of \_\_, 2005.

\_\_\_\_\_  
ROY CRAWFORD  
President of Council  
ATTEST:

\_\_\_\_\_  
LOIS A. LINARD  
Clerk of Council

Approved this \_ day of \_, 2005.

\_\_\_\_\_  
RICHARD P. HOMRIGHAUSEN  
Mayor

PUBLISH SUMMARY TWICE  
Recommended by the Finance Committee

**EMERGENCY ORDINANCE NO. 05-07**

**AN ORDINANCE TO PROVIDE FOR THE DETERMINATION OF APPORTIONED NET PROFITS OF AN AFFILIATED GROUP OF CORPORATIONS THAT FILES A CONSOLIDATED DOVER INCOME TAX RETURN AND TO AMEND THE RATE OF TAXATION IN ORDINANCE 36-05**

**WHEREAS, THE CITIZENS OF DOVER APPROVED AN INCREASE IN THE RATE OF TAXATION;**

**AND WHEREAS, ORDINANCE 36-05 NEEDS CLARIFICATION OF THE METHOD OF APPORTIONMENT OF PROFITS FOR TAXPAYERS WHO FILE A CONSOLIDATED RETURN;**

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DOVER, STATE OF OHIO:**

**I.**

That in order to provide for the more efficient assessment, collection and administration of the City of Dover Income Tax in respect of affiliated groups of corporations that file consolidated Dover Income Tax returns, Ordinance No. 36-05, the Income Tax Ordinance of the City of Dover, is hereby amended to insert the following provision as Section 3.F.2:

- “2. Each member of an affiliated group of corporations that files a consolidated income tax return with the Municipality shall separately determine its net profits in accordance with Section 2.A.1 and 2.A.21 hereof. Each member of such affiliated group of corporations shall separately determine its business apportionment percentage in accordance with Section 3.B hereof. Each member of such affiliated group of corporations shall separately apportion its own net profits to the Municipality based on its own business apportionment percentage. The separately computed and apportioned net profits of each member of such affiliated group of corporations shall then be combined to determine the consolidated income tax liability of such affiliated group of corporations. If the foregoing method of computing and/or apportioning the net profits of an affiliated group of corporations subject to the Municipality’s income tax does not produce an equitable result, the City Auditor may substitute another method of computation and/or apportionment to produce an equitable result, and an affiliated group of corporations subject to the Municipality’s income tax may, if the approval of the City Auditor is obtained, substitute another method of computation and/or apportionment to produce an equitable result.”

II.

Section 3: Imposition of tax is amended as follows:

A Basis of Imposition. Subject to the provisions of this Dover City Income Tax Ordinance, an annual tax shall be, and is hereby levied at the rate of one and one-half per cent (1 1/2%) per annum commencing on January 1, 2007 upon the following:  
( the remainder of this section remains the same).

III.

This ordinance is declared to be an emergency measure necessary for the preservation of public peace, health, and safety for the City of Dover and its inhabitants, and provided it receives the affirmative vote of two-thirds (2/3) of the members appointed or elected to Council, it shall take effect and be in force immediately upon its passage and approval; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
ROY CRAWFORD  
President of Council

ATTEST:

\_\_\_\_\_  
Lois Linard  
Clerk of Council

Approved this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
RICHARD HOMRIGHAUSEN  
Mayor

**ORDINANCE NO. 65-07**

**AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE CITY OF DOVER, OHIO, CHAPTER 181, SECTION 181.11, REGARDING THE COLLECTION OF UNPAID TAXES.**

**WHEREAS**, the City of Dover has previously enacted legislation sanctioning violations of the City of Dover codified ordinances; and,

**WHEREAS**, the Council of the City of Dover wishes to retain an outside collection agency to assist in the collection of outstanding unpaid income taxes, interest and penalties; and,

**WHEREAS**, the Dover City Council wishes to amend the City of Dover, Ohio Codified Ordinances, Chapter 181, Section 181.11 for the purposes of clarity and to incorporate a new provision authorizing imposition of collection agency fees upon the delinquent income taxpayer; and,

**NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF DOVER, STATE OF OHIO:**

**SECTION 1.**

**THAT SECTION 181.11(a) IS HEREBY AMENDED TO READ AS SET FORTH BELOW (all other sections of chapter 181 remain the same):**

**181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

(a) All taxes imposed by this Chapter shall be collectible by the City of Dover Income Tax Department or its authorized agent, together with any interest, penalties and reasonable administrative costs thereon, by suit or by other means as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.

Reasonable administrative costs associated with the delinquent tax collection includes, but is not limited to, fees in an amount not less than twenty-five percent (25%) of the total delinquent amount, including the tax amount, interest and penalties of any post judgment account assigned to a collection agency and no greater than thirty-five percent (35%) of the total delinquent amount, including tax amount, interest and penalties of any pre-judgment account assigned to a collection agency.

In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waive of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.

The Mayor or Auditor shall be authorized and directed to enter into a contract for collection services in conformity with the provisions of this codified ordinance.

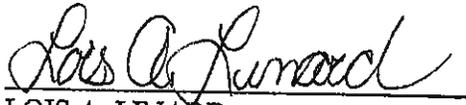
**SECTION 2.**

This Ordinance shall take effect on the earliest date allowed by law.

PASSED this 3<sup>RD</sup> day of December, 2007.

  
ROY CRAWFORD  
President of Council

ATTEST:

  
LOIS A. LINARD  
Clerk of Council

Approved this 3<sup>RD</sup> day of DECEMBER, 2007.

  
RICHARD P. HOMRIGHAUSEN  
Mayor

PUBLISH SUMMARY TWICE 12/22/07  
Recommended by the Finance Committee 12/29/07

69  
ORDINANCE NO. ~~71~~-09

**AN ORDINANCE AMENDING PART ONE, §181.12, OF THE CODIFIED ORDINANCES OF THE CITY OF DOVER AND INCREASING THE CRIMINAL PENALTIES FOR FAILURE TO PAY OR FILE DOVER MUNICIPAL INCOME TAX, AND DECLARING AN EMERGENCY**

**WHEREAS**, the Council for the City of Dover, Tuscarawas County, Ohio has determined that to preserve the health, safety, welfare and morals of its residents that it is necessary to increase the criminal penalties as prescribed in Part One, §181.12 of the codified ordinances of the City of Dover, therefore:

**BE IT ORDAINED** by the Council of the City of Dover as follows:

**I**

That Part One, §181.12, of the Codified Ordinances of the City of Dover is hereby amended as follows:

“181.12 VIOLATIONS AND PENALTIES.

(a) Any person who commits any of the actions set forth in subsections (a)(1) through (13) hereof, shall be guilty of a misdemeanor of the third degree on a first offense and shall be fined not more than five hundred dollars (\$500.00) and imprisoned not more than sixty (60) days; on a second and each subsequent offense, such person shall be guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000.00) and imprisoned not more than one hundred eighty (180) days.

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Knowingly make an incomplete, false or fraudulent return; or
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the City Auditor; or
- (5) Refuse to permit the City Auditor or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns; or

- (2) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.  
(ORC 718.12)

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

(f) The term "person" as used in this section shall, in addition to the meaning prescribed in §181.02, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

## II

That existing §181.12 of Part One of the Codified Ordinances of the City of Dover, passed on 09/15/2005 as Ord. 36-05, is hereby repealed and amended in its entirety in accordance with this amended ordinance as passed on this \_\_\_\_ day of December, 2009.

## III

That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, welfare, and morals of the citizens of the City of Dover, and this Ordinance shall become immediately effective upon receiving the affirmative vote of two-thirds of all members elected to Council and approval of the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

**PASSED** this \_\_\_\_ day of December, 2009.

\_\_\_\_\_  
TIMOTHY W. TARULLI  
President of Council

ATTEST:

\_\_\_\_\_  
JULIE LEGGETT  
Clerk of Council

Approved this \_\_\_\_\_ day of December, 2009.

RICHARD P. HOMRIGHAUSEN  
Mayor

PUBLISH SUMMARY TWICE  
Recommended by the finance committee

12-7-09  
motion to suspend  
6 years

12-7-09  
motion to pass  
6 years