

# City of Mason Tax Ordinance



Revised December 17, 2007

## TABLE OF CONTENTS

<p>181.01 Purpose Clause..... 1</p> <p>181.02 Definitions ..... 1</p> <p>181.03 Imposition of Tax..... 4</p> <p style="padding-left: 20px;">A. Basis of Imposition ..... 4</p> <p style="padding-left: 40px;">1. Resident Individuals..... 4</p> <p style="padding-left: 40px;">2. Non-Resident Individuals ..... 4</p> <p style="padding-left: 40px;">3. Resident Unincorporated Business ..... 4</p> <p style="padding-left: 40px;">4. Non-Resident Unincorporated Business ..... 5</p> <p style="padding-left: 40px;">5. Corporations..... 5</p> <p style="padding-left: 20px;">B. Allocation of Net Profits ..... 5</p> <p style="padding-left: 20px;">C. Operating Loss Carry Forward ..... 6</p> <p style="padding-left: 20px;">D. Consolidated Returns ..... 6</p> <p style="padding-left: 20px;">E. Exemptions ..... 7</p> <p>181.04 Effective Period ..... 8</p> <p>181.05 Return and Payment of Tax ..... 8</p> <p style="padding-left: 20px;">A. Dates and Exemptions..... 8</p> <p style="padding-left: 20px;">B. Returns and Contents Thereof..... 8</p> <p style="padding-left: 20px;">C. Extensions ..... 9</p> <p style="padding-left: 20px;">D. 1. Payment With Returns ..... 9</p> <p style="padding-left: 40px;">2. Overpayments-Refunds..... 9</p> <p style="padding-left: 20px;">E. 1. Amended Returns..... 9</p> <p style="padding-left: 40px;">2. Effect of Federal Tax Determination ..... 9</p> <p>181.06 Collection at Source..... 10</p> <p style="padding-left: 20px;">A. Withholding by Employer..... 10</p> <p style="padding-left: 20px;">B. Employer Considered as Trustee ..... 10</p> <p style="padding-left: 20px;">C. Employee’s Listing ..... 10</p> <p style="padding-left: 20px;">D. Contractors and Subcontractors ..... 11</p> <p style="padding-left: 20px;">E. Domestic Servants ..... 11</p> <p>181.07 Declarations ..... 11</p> <p style="padding-left: 20px;">A. Requirement for Filing..... 11</p> <p style="padding-left: 20px;">B. 1. Calendar Dates for Filing ..... 11</p> <p style="padding-left: 40px;">2. Fiscal Dates for Filing..... 11</p> <p style="padding-left: 20px;">C. 1. Forms-Credit for Tax Withheld or Paid To Another Municipality ..... 11</p> <p style="padding-left: 40px;">2. Payments With Declaration ..... 11</p> <p style="padding-left: 20px;">D. Amended Declaration ..... 12</p> <p style="padding-left: 20px;">E. Annual Return Required ..... 12</p>	<p>181.08 Duties of the Tax Commissioner..... 12</p> <p style="padding-left: 20px;">A. 1. Collection Responsibility ..... 12</p> <p style="padding-left: 40px;">2. Responsibility for Maintenance Records12</p> <p style="padding-left: 20px;">B. Enforcement Authority..... 13</p> <p style="padding-left: 20px;">C. Determination of Taxes..... 13</p> <p style="padding-left: 20px;">D. Compromise Authority..... 13</p> <p style="padding-left: 20px;">E. Installment Payments ..... 13</p> <p>181.09 Investigative Powers of the Tax Commissioner: Penalty for Divulging Confidential Information ..... 13</p> <p style="padding-left: 20px;">A. Examination of Taxpayer’s Records ..... 13</p> <p style="padding-left: 20px;">B. Appearance Orders to Taxpayers ..... 14</p> <p style="padding-left: 20px;">C. Result of Refusal to Submit Information .. 14</p> <p style="padding-left: 20px;">D. Retention of Records by Taxpayer..... 14</p> <p style="padding-left: 20px;">E. Confidential Nature of Information..... 14</p> <p>181.10 Interest and Penalties ..... 14</p> <p style="padding-left: 20px;">A. Interest..... 14</p> <p style="padding-left: 20px;">B. Penalties ..... 15</p> <p style="padding-left: 20px;">C. Exceptions..... 15</p> <p style="padding-left: 20px;">D. Abatement by Board of Review ..... 15</p> <p>181.11 Collection of Unpaid Taxes and Refunds Of Overpayments ..... 15</p> <p style="padding-left: 20px;">A. Time Limitation on Suits..... 15</p> <p style="padding-left: 20px;">B. Responsibility of Officers and Employers 16</p> <p style="padding-left: 20px;">C. Time Limitation on Refunds ..... 16</p> <p>181.12 Violations-Penalties ..... 17</p> <p style="padding-left: 20px;">A. Enumeration of and Penalties..... 17</p> <p style="padding-left: 20px;">B. Time Limitation on Prosecutions ..... 17</p> <p style="padding-left: 20px;">C. Failure to Obtain Forms Not a Defense..... 18</p> <p style="padding-left: 20px;">D. Responsibility of Corporation Employees 18</p> <p>181.13 Board of Review ..... 18</p> <p style="padding-left: 20px;">A. Composition ..... 18</p> <p style="padding-left: 20px;">B. Procedure..... 18</p> <p style="padding-left: 20px;">C. Appeals..... 18</p> <p>181.14 Allocation of Funds..... 19</p> <p>181.15 Credit for Tax Paid to Another Municipality ... 19</p> <p style="padding-left: 20px;">A. Limitation on Amount Paid..... 19</p> <p style="padding-left: 20px;">B. Credits and Limitations Thereof ..... 19</p> <p>181.16 Savings Clause..... 20</p>
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## **Tax Ordinance (Revised 12/17/07)**

TO PROVIDE FUNDS FOR GENERAL OPERATIONS AND PERMANENT IMPROVEMENTS BY LEVYING A TAX ON ALL INCOME, SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED OR RECEIVED BY RESIDENTS: ON ALL INCOME, SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED OR RECEIVED BY NON-RESIDENTS FOR WORK DONE OR SERVICES PERFORMED IN THE CITY OF MASON: ON THE NET PROFITS OF ALL UNINCORPORATED BUSINESSES, PROFESSIONS, OR OTHER ENTITIES FROM SALES MADE, WORK DONE AND SERVICES PERFORMED, OR BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE CITY OF MASON, WHETHER OR NOT SUCH UNINCORPORATED BUSINESSES, PROFESSIONS, OR OTHER ENTITIES HAVE AN OFFICE OR PLACE OF BUSINESS IN THE CITY OF MASON: ON A RESIDENT'S SHARE OF THE NET PROFITS OF AN UNINCORPORATED BUSINESS, PROFESSION, OR OTHER ENTITY, WHETHER LOCATED IN OR OUTSIDE THE CITY OF MASON, NOT ATTRIBUTABLE TO MASON: AND ON THE NET PROFITS OF ALL CORPORATIONS FROM SALES MADE, WORK DONE, AND SERVICES PERFORMED, OR BUSINESS OR OTHER ACTIVITIES CONDUCTED IN THE CITY OF MASON, WHETHER OR NOT SUCH CORPORATIONS HAVE AN OFFICE OR PLACE OF BUSINESS IN THE CITY OF MASON: REQUIRING THE FILING OF RETURNS AND THE FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX: IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE AND PAYING THE SAME TO THE CITY OF MASON: PROVIDING FOR THE ADMINISTRATION, COLLECTION, AND ENFORCEMENT OF SAID TAX: DECLARING VIOLATIONS THEREOF TO BE MISDEMEANORS, AND IMPOSING PENALTIES THEREFOR.

### **181.01 PURPOSE.**

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities, and capital improvements of the City of Mason there shall be, and is hereby, levied a tax on income, salaries, wages, commissions, and other compensation, and on net profits as hereinafter provided.

### **181.02. DEFINITIONS.**

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

**ADJUSTED FEDERAL TAXABLE INCOME.** A "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

**ASSOCIATION.** A partnership, limited partnership, limited liability company or any other form of unincorporated enterprise.

**BOARD OF REVIEW.** The Board created by and constituted as provided for in Section 181.13 of this Ordinance.

**BUSINESS.** 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.

**CORPORATION.** A corporation or joint stock association, including Chapter S Corporations as defined in the federal tax code, 26 U.S.C. 1361, organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

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

**EMPLOYEE.** One who receives wages, salary, commissions, other types of compensation, or other income in the services of any employer.

**EMPLOYER.** An individual, partnership, association, corporation, governmental body, unit, or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, other compensation, or other income basis.

**FISCAL YEAR.** An accounting period of twelve (12) months ending on any day other than December 31<sup>st</sup>.

**GROSS RECEIPTS.** The total revenue derived from sales, work done, or service rendered, before any deductions, exceptions, or credits are claimed.

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

(A) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Municipality.

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

(C) The portion attributable to Mason of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality.

**MUNICIPALITY.** The City of Mason, Ohio.

**NET PROFITS.** For taxable years prior to 2004, the net gain from all operations including those pertaining to capital gains and losses of a business, profession, or enterprise after provision for all ordinary and necessary expenses, except taxes imposed by this Ordinance, and federal and other taxes based on income, paid or accrued in accordance with the accounting system (i.e., either cash or accrual) used by the taxpayer for

federal income tax purposes, and, in the case of an association, without deduction of salaries paid to partners or the owners; and as otherwise adjusted to the requirements of this ordinance and the rules & regulations promulgated by the Tax Commissioner. (For taxable years 2004 and later, see “adjusted federal taxable income”.)

Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value.

**NON-RESIDENT.** An individual domiciled outside the Municipality.

**NON-RESIDENT UNINCORPORATED BUSINESS ENTITY.** an unincorporated business entity not having a place of business within the Municipality.

**PERSON.** Every natural person, partnership, fiduciary, association, corporation, or other entity. Whenever used in any clause prescribed and imposing a penalty, the term “person” as applied to any association shall include the partners or members thereof, and as applied to corporations, the officers thereof.

**PLACE OF BUSINESS.** Any bona-fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his employees, regularly in attendance.

**QUALIFYING WAGE.** Wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by the City of Mason. This definition is effective January 1, 2004, for taxable years 2004 and later.

**RESIDENT.** An individual domiciled in the Municipality.

**RESIDENT UNINCORPORATED BUSINESS ENTITY.** An unincorporated business entity having a place of business within the Municipality.

**TAX YEAR.** The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this Ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

**TAX COMMISSIONER.** The Tax Commissioner of the Municipality or the person executing the duties of the aforesaid Commissioner.

**TAXPAYER.** A person, whether an individual, partnership, association, corporation, or other entity, required by this Ordinance to file a return or pay a tax.

**TAXABLE INCOME.** Income minus the deductions and credits allowed by this ordinance. (See “Income” definition.)

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

**181.03 IMPOSITION OF TAX.**

(a.) BASIS OF IMPOSITION.

Subject to the provisions of Section 181.16 of this Ordinance and for the purposes specified in Section 181.01 hereof, an annual tax, as provided in ordinance no. 2004-154, passed December 13, 2004 and as subsequently amended from time to time, shall be imposed on and after January 1, 2005, at the rate of One (1%) Per Cent Per annum upon the following:

1. On all income, qualifying wages, including sick and vacation pay, commissions, and other compensation earned or received during the effective period of this Ordinance by residents.

2. On all income, qualifying wages, including sick and vacation pay, commissions, and other compensation earned or received during the effective period of this Ordinance, by non-residents for work done or service performed in the Municipality.

(A) Effective January 1, 2005, Mason shall not tax the compensation paid to a non-resident individual for personal services or work performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year (which hereby classifies the individual as an “occasional entrant”) unless one of the following applies:

(1) The individual is the employee of another person, the principal place of business in which the employee normally works is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days, and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.

(2) The individual is a 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

(B) For purposes of the 12-day calculation, any portion of a day worked in Mason shall be counted as one day worked in Mason.

(C) Beginning with the thirteenth day, the employer of said individual shall begin withholding Mason income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to Mason in accordance with Section 181.06 of the income tax ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in Mason by the individual for the first twelve (12) days. If the individual is self-employed or an independent contractor, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality.

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

(B) On a resident partner's or owner's share of the net profits earned or received during the effective period of this Ordinance of a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.

4. (A) On the portion attributable to the Municipality of the net profits, earned or received during the effective period of this Ordinance, of all non-resident associations, unincorporated businesses, professions, or other entities, derived from sales made, work done, or services performed or rendered or business or other activities conducted in the Municipality, whether or not such association or other unincorporated entity has an office or place of business in the Municipality.

(B) On a resident partner's or owner's share of the net profits earned or received during the effective period of this Ordinance of a non-resident association or other unincorporated entity not attributable to the Municipality, and not levied against such association or other unincorporated entity.

5. On the net profits earned or received during the effective period of this Ordinance of all corporations derived from sales made, 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. effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable in the following manner:

(a) If no portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment.

(b) If any portion of the net profits of the S corporation are allocated or apportioned to the State of Ohio, the full amount of the distributive share is taxable.

7. On all income from sports winnings by a resident of the Municipality. No regard is given to losses or to the location where the sports winnings were received.

**(B). ALLOCATION OF NET PROFITS.**

Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the City of Mason for purposes of income taxation in the same proportion as the average ratio of:

1. Multiply the entire net profits of the business by a business allocation percentage to be determined by:

(a) Ascertaining the percentage with the average original cost of the real and tangible personal property owned or used in the business and situated within the Municipality, during the period covered by the return is of the average original cost of all the real and tangible personal property owned or used in the business, wherever situated, during such period.

(b) Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the Municipality, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.

(c) Ascertaining the percentage which the total wages, salaries, commissions, and other compensation paid, during the period covered by the return, to employees for services performed in the Municipality is of the total wages, salaries, commissions, and other compensation paid during such period to all employees within and outside the Municipality.

(d) Adding together the percentages determined in accordance with subparagraphs (a), (b), and (c) above, 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 said total. A factor is applicable even though it may be allocable entirely in or outside the Municipality.

2. In the event a just and equitable result cannot be obtained under the formulas provided for herein, the Tax Commissioner shall, under uniform regulations, have the authority to substitute other factors or methods calculated to effect a fair and proper allocation.

#### (C.) OPERATING LOSS -FORWARD.

1. The portion of a net operating loss sustained in any taxable year, beginning with January 1, 1971, allocable to the Municipality, 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 the five (5) 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.

2. The portion of a net operation loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

3. The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

#### (D.) CONSOLIDATED RETURNS.

1. Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Municipality. However, once the affiliated group has elected to file a consolidated return or a separate return with the Municipality, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Municipality.

2. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly allocated to the Municipality. If the Tax Commissioner finds 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 some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Municipality.

(E.) EXEMPTIONS.

The tax provided for herein shall not be levied on:

1. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard, and the peace corps.

2. Pensions paid as a result of retirement, social security, unemployment compensation, and disability benefits received from private industry or local, state or Federal governments, or from charitable, religious or educational organizations.

3. Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

4. The gross income and gross receipts of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property, or tax exempt activities.

5. Unemployment insurance benefits, welfare benefits, and workers' compensation.

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

7. Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation.

8. Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

9. Expenses reported for Federal Form 2106, subject to audit and approval by the Municipality income tax office.

10. Compensation paid under section 3501.28 or 3501.36 of the Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

11. Income, 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.

12. Salaries, wages, commissions, other compensation, other income and net profits, including interest and dividends as provided in 718.01 R.C., the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.

**181.04 EFFECTIVE PERIOD.**

The tax imposed by this Ordinance shall be levied, collected, and paid with respect to all income and net profits, subject to the tax, earned or received on or after January 1, 1971.

**181.05 RETURN AND PAYMENT OF TAX.**

(a.) DATES AND EXEMPTIONS.

Each person regardless of age who is engaged in business, or whose income, salary, wages, commissions, or other compensation are subject to the tax imposed by this Ordinance shall, for years prior to taxable year 2004, whether or not a tax be due thereon, make and file a return with the Tax Commissioner on or before April 30<sup>th</sup> of each year, and on or before April 15<sup>th</sup> for taxable years 2004 and later. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall, beginning with his first fiscal year, any part of which falls within the effective period of this Ordinance, file his return within four (4) months from the end of such fiscal year or period. However, each resident individual of the Municipality who has no income subject to the Municipality's income tax shall so indicate this fact on their income tax return, including the reason(s) their income is not taxable and, if authorized by the Municipality, shall be relieved of filing future returns unless and until such time the taxpayer receives income taxable to the Municipality. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the income, salaries, wages, commissions, or other compensation of an employee, and paid by him or them to the Tax Commissioner may be accepted as the return required of any employee whose sole income, subject to tax under this Ordinance, is such income, salary, wages, commissions, or other compensation.

(b.) RETURNS AND CONTENTS THEREOF.

The return, including, W-2 and 1099 forms, shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner setting forth:

1. The aggregate amounts of income, qualifying wages, commissions, and other compensation earned, and gross receipts 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;
2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, or other information as the Tax Commissioner may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040, Page One and Two of Form 1120, 1120S (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other applicable Federal Schedules.

(4.) The Municipality Income Tax Department shall accept a generic form of its annual income tax return if the generic form once completed and filed contains all of the information required to be submitted with the Municipality's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the Municipality governing the filing of returns, reports or documents.

(c.) EXTENSIONS.

The Tax Commissioner may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for filing of the Federal Income Tax Return for taxable years prior to 2004. For taxable year 2004 the extended due date 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. for taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. the extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The tax Commissioner may deny the extension if the taxpayer's income tax account with the Municipality is delinquent in any way. The Tax Commissioner may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d.) PAYMENT WITH RETURNS

1. The taxpayer making a return shall at the time of the filing thereof pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source, pursuant to the provisions of Section 181.06 of this Ordinance; or where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of Section 181.07 of this Ordinance, or where an income tax, creditable against the Mason tax pursuant to Section 181.15 hereof has been paid to another municipality, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

2. A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Ordinance 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.

(e.) AMENDED RETURNS.

1. 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 and limitations contained in Section 181.11 and 181.15. Such amended returns shall be on a form obtainable on request from the Tax Commissioner. A taxpayer may not change the method of accounting (i.e., cash or accrual) 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 Mason tax liability, such taxpayer shall make and file an amended Mason return, showing income subject to the Municipality 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.

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

**181.06. 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 or other income basis shall deduct at the time of the payment of such salaries, wages, commissions, or other compensations, or other income due by said employer to each said employees the tax of one (1%) percent. Each employer shall, on or before the fifteenth date of each month, make a return in such detail as the Tax Commissioner may prescribe, and pay to the Commissioner the tax withheld during the preceding month. However, the Commissioner may, when authorized by rule of general application adopted by the Board of Review, approve the filing of returns and payment of the tax withheld on a quarterly basis if the total average monthly Mason tax withheld during the previous tax year was less than \$300. Said return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed by the Tax Commissioner. Effective January 1, 2005, payments of withheld tax shall be deposited electronically, unless exemption from this requirement is given by the Tax Commissioner.

(b.) EMPLOYER CONSIDERED AS TRUSTEE.

Each employer in collecting said 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 employee 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.

(c.) EMPLOYEES' LISTINGS.

On or before February 28<sup>th</sup> of each year, each employer shall file a withholding return, on a form or forms prescribed by and obtainable from the Tax Commissioner, setting forth the names, addresses, and social security numbers of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of tax withheld from the listed employees and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.

(d.) CONTRACTORS AND SUBCONTRACTORS.

All employers that provide any contractual service within the Municipality, and who employ subcontractors in conjunction with that service, shall provide the Municipality the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.

(e.) DOMESTIC SERVANTS.

No person shall be required to withhold the tax on the wages or other compensation 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.

**181.07 DECLARATIONS.**

(a.) REQUIREMENT FOR FILING.

Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or engages in any business, profession, enterprise, or activity subject to the tax imposed by Section 181.03 hereof, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any.

(b.) DATES FOR FILING.

1. Such declaration shall be filed on or before April 30<sup>th</sup> of each year, and on or before April 15<sup>th</sup> for taxable years 2005 and later, during the life of this Ordinance. no penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Municipality on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve-month period.

2. Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the start of each fiscal year or period, and within 105 days for taxable years 2005 and later.

(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 Commissioner, or on other forms deemed acceptable by the tax Commissioner. Credit shall be taken in said declaration for Mason tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit is allowed against the Mason tax under Section 181.15 hereof.

2. Effective January 1, 2003, Such declaration of estimated tax to be paid the Municipality by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of the estimated

tax and at least a similar amount shall be paid on or before JULY 31st and OCTOBER 31st of the taxable year, and JANUARY 31<sup>st</sup> of following year.

3. Effective January 1, 2003, such declaration of estimated tax to be paid to the Municipality by corporations and associations shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax and at least a similar amount shall be paid on or before June 15, September 15 and December 15. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

(d.) AMENDED DECLARATION.

1. An amended declaration must be filed on or before January 31<sup>st</sup> of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Tax Commissioner, if it appears that the original declaration made for such year underestimated the taxpayer's income by thirty percent (30%) or more. At such times a payment which, together with prior payments, is sufficient to pay taxpayer's entire estimated liability, shall be made. If less than ninety percent (90%) of the estimated annual tax liability has been received by the Municipality by January 31<sup>st</sup>, and the amount received is less than one hundred (100%) of the previous year's tax liability, the difference between the amount received and ninety percent (90%) of the tax liability shall be subject to the interest and penalty provisions of Section 181.10 hereof.

2. A declaration may be amended at any time, provided, however, that in case an amended declaration is 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 last day of the fourth month of the calendar or fiscal year following that for which the declaration was filed for taxable years 2004 and prior, and within 105 days of the calendar year or fiscal year for taxable years 2005 and later, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof.

**181.08 DUTIES OF THE TAX COMMISSIONER.**

(a.) COLLECTION AND MAINTENANCE RESPONSIBILITY.

1. It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Ordinance in the manner prescribed therein, and to keep an accurate record thereof, and to report all moneys so received.

2. It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six years (6), 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.) ENFORCEMENT AUTHORITY.

Said Tax Commissioner 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 authorized or required by this Ordinance, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the re-examination and correction of returns. Taxpayers are hereby required to comply with said rules and regulations.

(c.) DETERMINATION OF TAXES.

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 Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such assessment shall be collected in accordance with the rules and regulations.

(d.) COMPROMISE AUTHORITY.

Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this Ordinance.

(e.) INSTALLMENT PAYMENTS.

The Tax Commissioner is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments not to exceed thirty-six months, when the taxpayer has proved to the Tax Commissioner 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 the taxpayer files proper returns for all amounts owed by him under this Ordinance. The Tax Commissioner shall determine the duration of each installment payment plan. Any installment payment not paid by the due date of the fifteenth of each month shall be charged additional interest at the rate of one-half percent (1/2%) per month. Denial of an INSTALLMENT PAYMENT request by the Tax Commissioner may be appealed to the Board of Review.

**181.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER – PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a.) EXAMINATION OF TAXPAYERS RECORDS.

The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer, or taxpayer, or any person subject to, or whom the Tax Commissioner believes subject to, the provisions of this Ordinance, for the purpose of verifying the accuracy of any withholdings due under this Ordinance. Every such employer, supposed employer, taxpayer, or supposed taxpayer, is hereby directed and required to furnish, within ten (10) calendar days following a written request of

the Tax Commissioner, or his duly authorized agent or employees, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b.) APPEARANCE ORDERS TO TAXPAYERS.

The Tax Commissioner is hereby authorized to order any person, presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been returned 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 and State income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c.) RESULT OF REFUSAL TO SUBMIT INFORMATION.

The refusal to produce books, papers, records, and federal and State 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 Tax Commissioner authorized hereby shall be deemed a violation of this Ordinance punishable as provided in Section 181.12 hereof.

(d.) RETENTION OF RECORDS BY TAXPAYER.

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.) CONFIDENTIAL NATURE OF INFORMATION.

Any information gained as a result of any returns, investigations, hearings, or verifications required or authorized by this Ordinance shall be confidential, and no disclosure thereof shall be made except to municipal, county, state, or federal taxing agencies, or, except for official tax 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) and imprisoned not more than six (6) months, or both, for each offense. Each disclosure shall constitute a separate offense. 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.

**181.10 INTEREST AND PENALTIES.**

(a.) INTEREST.

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



(b.) PENALTIES.

In addition to interest as provided in Paragraph A hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this Ordinance are hereby imposed as follows:

1. In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of: (a) Twenty Dollars (\$20.00) or (b) one percent (1%) per month, of the amount of the unpaid tax, if the tax is paid during the first six months after said tax became due; a penalty of two percent (2%) per month of the unpaid tax, if said tax is paid between the seventh and twelfth months after said tax became due; and a penalty of four percent (4%) per month of the amount of the unpaid tax, if said tax is paid later than twelve (12) months after it became due. The percentages herein specified, when used, shall apply from the first month of delinquency.

2. In the case of employers who fail to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of: (a) Fifty Dollars (\$50.00), or (b) two percent (2%) per month of the unpaid withholding, if paid during the first three (3) months after it was due; a penalty of four percent (4%) per month of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; and a penalty of five percent (5%) per month of the unpaid withholding, if paid later than six (6) months after it was due.

(c.) EXCEPTIONS.

A penalty shall not be assessed or an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; 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 final determination of the federal tax liability.

(d.) ABATEMENT BY BOARD OF REVIEW.

Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and/or interest, the Board of Review may abate such penalty or interest, or both.

**181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER-PAYMENTS.**

(a.) TIME LIMITATION ON SUITS.

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. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. 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 a failure to file a return all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver

of the federal statute of limitations the period within which an additional assessment may be made by the Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.

(b) RESPONSIBILITY OF OFFICERS AND EMPLOYEES.

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

(c) TIME AND AMOUNT LIMITATION ON REFUNDS.

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) months after final determination of the federal tax liability, whichever is later. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

1. A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.

2. A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.

3. Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

(d) Income tax that has been deposited with the City of Mason, but should have been deposited with another municipality, is allowable by the City of Mason as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the City of Mason, but was deposited with another municipality, shall be subject to recovery by the City of Mason. The City of Mason will allow a non-refundable credit for any amount owed the City of Mason that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City of Mason's tax rate. If the City of Mason's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the City of Mason.

(e) taxes or refunds of less than one dollar (\$1.00) shall not be collected or refunded.

**181.12 VIOLATIONS – PENALTIES.**

(a.) ENUMERATION OF AND PENALTIES.

Any person who shall:

1. Fail, neglect, or refuse to make any return or declaration required by this Ordinance; or
2. Make an incomplete, false, or fraudulent return; or
3. 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 Tax Commissioner; or
5. Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or her employer's books, records, papers, and federal income tax returns; or
6. Fail to appear before the Tax Commissioner and to produce his or her employer's books, records, papers, or federal income tax returns upon order or subpoena of the Tax Commissioner; or
7. Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
8. Fail to comply with the provisions of this Ordinance or any order or subpoena of the Tax Commissioner; or
9. Fail, neglect, or refuse to make any payment on the estimated tax for any year as required by Section VII; or
10. Fail, as president or treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this Ordinance to be paid to the Municipality in accordance with the provisions of Section 181.06 hereof; or
11. 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,

shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months, or both, for each offense.

(b.) TIME LIMITATION ON PROSECUTIONS.

All prosecutions under this section must be commenced within the period stipulated in O.R.C. Section 718.12.

(c.) FAILURE TO OBTAIN FORMS NOT A DEFENSE.

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, or declaration, from filing such form, or from paying the tax.

(d.) RESPONSIBILITY OF CORPORATION EMPLOYEES.

The term "person" as used in this section shall, in addition to the meaning prescribed in Section 181.02 of this Ordinance, 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.

**181.13 BOARD OF REVIEW.**

(a.) COMPOSITION.

A Board of Review consisting of three (3) persons, appointed by the Mayor, with the consent of Council, is hereby created. Board members shall receive such compensation as Council may determine.

(b.) PROCEDURE.

A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing, and the provisions of Section 181.09 hereof 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.

(d.) APPEALS.

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

2. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

**181.14 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this Ordinance shall be deposited in the General Fund and shall be appropriated and disbursed in the order established from time to time, by separate Resolution of the Municipal Council.

**181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALILTY.**

(a.) **LIMITATION ON AMOUNT PAID.**

Every individual taxpayer who resides in the Municipality and who receives income, qualifying wages, commissions, or other compensation or net profits from sales made, work done, or services performed or rendered outside of the Municipality, if it be made to appear that he has paid a municipal income tax on such income, taxable under this Ordinance, to another municipality, shall be allowed a credit for such tax paid to the other municipality, against the tax imposed by this Ordinance in an amount not to exceed the following:

- Fifty percent (50%) of the income and/or earnings taxes paid and owed to another municipality for tax year 2006 and prior.
- Sixty-five percent (65%) of the income and/or earnings taxes paid and owed to another municipality for tax year 2007.
- Eighty percent (80%) of the income and/or earnings taxes paid and owed to another municipality for tax year 2008.
- Ninety percent (90%) of the income and/or earnings taxes paid and owed to another municipality for tax year 2009.
- One hundred percent (100%) of the income and/or earnings taxes paid and owed to another municipality for tax year 2010 and later.

(Ordinance 2007-174)

(b.) **CREDITS AND LIMITATIONS THEREOF.**

Notwithstanding the provisions contained in Section 181.11 hereof, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulation provide.

**181.16 SAVINGS 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 if 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 hereof, not been included therein.