

CHAPTER 229

Administration and Enforcement

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CROSS REFERENCES

Power to levy income tax - see CHTR. §106
Payroll deductions - See Ohio R.C. 9.42
Municipal income taxes - See Ohio R.C. Ch718
Tax for General Municipal operations - see ADM. Ch. 221

229.01 ASHLAND MUNICIPAL INCOME TAX.

The Municipal income tax of the City of Ashland, shall hereinafter be referred to as the Ashland Municipal Income Tax, and for the purpose and application of this chapter shall include any and all levies of tax on income by the City which begin on or after January 1, 1973 as provided in Chapter 221.
(Ord. 62-72. Passed 12-5-72.)

229.02 DEFINITIONS.

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

- (a) "Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or required by the Codified Ordinances to pay an Ashland Municipal income tax.
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- (d) "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, foreign country or dependency.
- (e) "Employee" means an individual whose earnings are subject to the withholding of Federal income tax or social security tax.
- (f) "Employer" means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Net profits" means the net gain from the operation of a business, profession or enterprise after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed, and without deduction of Federal, State and City taxes based on income, except as otherwise may be provided by law.
- (h) "Nonresident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the City of Ashland.
- (i) "Person" means every natural person, partnership, limited partnership, corporation, fiduciary or association, whenever used in any clause prescribing and imposing a penalty. The term "person" as applied to association, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

- (j) "Resident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the City.
- (k) "Other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the City.

The singular shall include the plural and the masculine shall include the feminine and the neuter. (Ord. 62-72. Passed 12-5-72.)

229.03 FINAL RETURN AND PAYMENT OF TAX.

(a) Each taxpayers whose earnings or profits are subject to the Ashland municipal income tax, shall on or before April 30, 1974, and on or before April 30 of each year thereafter, through 1997, and then and on or before April 15 of each year thereafter, make and file a return with the Director of Finance and Public Record on a form obtainable from the Director, setting forth the aggregate amount of salary, wages or other compensation, including any deferred income, and net profits earned by him during the preceding year or period and subject to the tax, together with other pertinent information as the Director may require. Provided, however, that when the final return is made for a fiscal year or other period different from the calendar year, the return shall be made within 120 days from the end of the fiscal year or other period.

(Ord. 62-97. Passed 10-21-97.)

(b) The return shall also show the amount of the Ashland Municipal income tax imposed on such earnings and profits. The taxpayer making the return shall, at the time of the filing thereof, pay to the Director the amount of tax shown as due thereon. Provided, however, that where any portion of the tax has been paid by such taxpayer pursuant to the provisions of Sections 229.04 and/or 229.05, 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 the final return.

(Ord. 62-72. Passed 12-5-72.)

(c) Effective January 1, 1991, all residents, eighteen years of age or older, shall file an annual return, notwithstanding whether Ashland municipal income tax has been withheld by an employer or any other reason, except in such cases when a resident qualifies for an exemption, for such reasons as approved by motion of Council, and when any such qualifying resident files, with the Ashland Municipal Income Tax Division, and individual declaration of filing exemption return in lieu of an Ashland municipal income tax.

As for non-residents having income subject to the Ashland municipal income tax, the return of an employer or employers showing that the correct amount of Ashland municipal income tax has been deducted by the employer or employers from the salaries, wages or compensation of any such employee, and has been paid by the employer or employers to the Director, shall be accepted as the return required of any such employee. Otherwise, non-residents, having income subject to the Ashland municipal income tax, shall also file an annual Ashland municipal income tax return. (Ord. 26-98. Passed 4-7-98.)

(d) Upon written request of the taxpayer, the Director may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of or granted by the Bureau of Internal Revenue for the filing of the Federal income tax return. (Ord. 62-72. Passed 12-5-72.)

(e) If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.

(f) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.
(Ord. 60-90. Passed 10-2-90.)

229.04 COLLECTION AT SOURCE.

(a) Each employer within the City who employs within the City one or more persons on a salary, wage, commission or other compensation basis, excluding exempted incomes set forth in Chapter 221, shall deduct at the time of the payment of such salary, wage, commission or other compensation, the Ashland municipal income tax on such salaries, wages, commissions and other compensation due by the employer to the employee and shall make a return and pay to the Director of Finance and Public Record the amount of tax so deducted as follows:

Effective January 1, 1998, all employers withholding less than one hundred dollars (\$100.00) per month.

- (1) For the three months ending March 31, on or before April 30.
- (2) For the three months ending June 30, on or before July 31.
- (3) For the three months ending September 30, on or before October 31.
- (4) For the three months ending December 31, on or before January 31.

Effective January 1, 1998, all employers withholding more than one hundred dollars (\$100.00) per month shall make a return and pay to the Director of Finance and Public Record the amount of tax so deducted on a monthly basis by the last day of the month following the month the monies were withheld.

Effective January 1, 2003, any nonresident employer, agent of such an employer, or other payer that is not situated in the City shall deduct and withhold the Ashland municipal income tax from the taxable income of any employees of any nonresident employer, agent of such an employer or other payer that is not situated in the City who is subject to the Ashland municipal income tax, whenever the total amount of tax required to be deducted and withheld for the City on account of all such employees or all other payees exceed one hundred fifty dollars (\$150.00) for a calendar year beginning on or after January 1, 2003. This provision is subject to the provisions of Ohio R.C. 718.03(A), second paragraph and Ohio R.C. 718.03(B). Such return and payment, as hereby required, shall be made in accordance with the return and payment schedule set forth above, in this section.

The returns shall be on a form prescribed and furnished by the Director. Such employers, in collecting the tax, shall be deemed to hold the same as trustees for the benefit of the City until payment is made by such employers to the City and any such tax collected by such employers from their employees shall, until same is paid to the City, be deemed a trust fund in the hands of such employers. (Ord. 72-02. Passed 11-19-02.)

(b) In addition to the provision of subsection (a) hereof, any person making compensation to an individual or independent contractor shall report such compensation. (Ord. 60-90. Passed 10-2-90.)

229.05 DECLARATIONS.

Every taxpayer who anticipates any income which is not subject to the provisions of Section 229.04 shall file a declaration of the estimated Ashland Municipal Income Tax on such income for the taxable year of 2003. Such declaration shall be filed on or before April 30, 2003, and thereafter a similar declaration shall be filed for each calendar year on or before April 30 of each ensuing year by all such taxpayers.

Such declaration shall be filed on a form, prescribed by the Director of Finance and Public Record and furnished by the Director, which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the Federal income tax, providing that it is understood that such figures may be modified according to the provisions of the Codified Ordinances where necessary in order that the declaration required by this section shall set forth only such income as is taxable under the provisions of this Title Nine.

For individuals, the declaration to be filed on or before April 30, 2003, and the declaration to be filed on or before April 30 of each ensuing year shall be accompanied by payment of at least 22-1/2% of the estimated Ashland Municipal Income Tax, and at least a similar amount shall be paid on or before July 31, October 31 and January 31 of such taxable year. For calendar year taxpayers that are not individuals, 22-1/2% by the taxpayer's Federal return filing date, 45% by June 15, 67-1/2% by September 15, and 90% by December 15, and for fiscal year taxpayers that are not individuals, 22-1/2% by the 15th day of the fourth month of the taxpayer's taxable year, 45% by the 15th day of the sixth month, 67-1/2% by the 15th day of the ninth month, and 90% by the 15th day of the 12th month. Any amount deducted and withheld for taxes from an individual's compensation is considered as estimated taxes paid in equal amounts of the prescribed payment dates. Such estimate may be amended at the time of the making of any quarterly payment and, on or before April 30 of the year following that for which the declaration was filed, a final return shall be filed and any balance which may be due the City shall be paid therewith. Should it appear that such taxpayer has paid more than the amount of the tax to which the City would be entitled, a refund of the amount so overpaid shall be made, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Director.
(Ord. 70-02. Passed 11-19-02.)

229.06 ADMINISTRATION; DUTIES OF DIRECTOR OF FINANCE.

The Ashland Municipal income tax imposed and levied pursuant to the provisions of this Title Nine shall be administered by such deputies and clerks within the Finance Department as may be from time to time determined by Council.

The Director of Finance and Public Record shall prescribe the form of accounts and reports to be rendered to his office and the form and method of keeping accounts within the income tax office. The Director shall be charged with the internal audit of all accounts and returns including the correction of returns.

The Director shall make all rules, regulations and decisions or changes thereto, necessary regarding the administration of the Ashland Municipal income tax.

The Director shall demand and receive the Ashland Municipal income tax. The Director shall keep an accurate record showing the amount received from each taxpayer and the date of such receipt. The Director shall make a written report to Council each quarter of all moneys collected hereunder during the preceding quarter.
(Ord. 62-72. Passed 12-5-72.)

The Director is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Director that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under any chapter of Title Nine.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand.
(Ord. 69-88. Passed 10-4-88.)

229.07 BOARD OF REVIEW.

(a) A Board of Review consisting of the Mayor, the Director of Law and a private citizen appointed by Council, is hereby created. All rules and regulations or changes thereto which are adopted by the Director of Finance and Public Record under the authority conferred by this chapter must be approved by the Board of Review before the same become effective.

(b) Any person dissatisfied with any decision made by the Director may appeal therefrom to the Board of Review within thirty days from the announcement of such decision and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such decision, or any part thereof.

(c) All hearings by the Board shall be conducted privately and the provisions of this chapter with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision. (Ord. 62-72. Passed 12-5-72.)

229.08 DIRECTOR AUTHORIZED TO INVESTIGATE; INFORMATION TO BE CONFIDENTIAL.

The Director of Finance and Public Record or his duly authorized agent, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the Ashland Municipal income tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish the Director, or his duly authorized agent, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

The Director, or his duly authorized agent, is hereby authorized to examine any person, employer or employee under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, wherever he believes such persons have knowledge of such income.

The refusal of such examination by any employer, employee or person subject or presumed to be subject to the Ashland Municipal income tax shall be deemed a violation of this chapter.

Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City for official purposes.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes and except in accordance with judicial order. No person shall divulge such information. (Ord. 62-72. Passed 12-5-72.)

229.09 INTEREST AND PENALTIES.

The Ashland Municipal income tax, including tax withheld from wages by an employer and remaining unpaid after having become due, shall bear interest on the amount unpaid at the rate of one and one-half percent (1-1/2%) per month, and the taxpayers upon whom the tax is imposed, and the employers required by this chapter to deduct, withhold and pay the tax shall be liable, in addition thereto, to a late payment penalty of twenty-five dollars (\$25.00). Such penalty shall also be assessed against any taxpayer for late filing of his return, even if claiming a refund.

The Director of Finance and Public Record may waive or remit any such interest or penalties as he in his discretion deems proper.

(Ord. 69-88. Passed 10-4-88.)

229.10 COLLECTION OF UNPAID TAX; TIME LIMITATIONS ON CIVIL SUITS; PROSECUTIONS OF OFFENSES AND CLAIMS FOR REFUND.

(a) The Ashland Municipal income tax administered by this chapter shall be collectible, together with any interest and penalties thereon, by suit. Civil actions to recover such taxes, and interest and penalties thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Prosecutions for offenses under Section 229.08 or 229.99 hereof shall be commenced within three 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 or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) Claims for refund of taxes must be brought within the time limitation provided in subsection (a) hereof.

(Ord. 62-72. Passed 12-5-72.)

229.11 REFUNDS.

Should it appear that any taxpayer has paid more than the amount of the Ashland municipal income tax to which the City is entitled to under the provisions of this Title Nine, a refund of the amount so overpaid shall be made except that no amount of less than one dollar (\$1.00) will be refunded, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer in accordance with Sections 229.05 and 229.10, but further provided that commencing with the taxable year 1984 the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions and other compensation.
(Ord. 60-90. Passed 10-2-90.)

229.12 SEPARABILITY.

This chapter shall not apply to any person, firm, corporation or to any property as to whom or which it is beyond the power of the City to impose a municipal income tax. If any sentence, clause, section or part of the chapter is found to be unconstitutional, illegal or invalid, such clause, sentence, section or part of this chapter shall not affect or impair any of the remaining provisions, sentences, clause, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 62-72. Passed 12-5-72.)

229.13 EMPLOYER, CONTRACTOR, SUBCONTRACTOR AND RENTAL PROPERTY OWNER REGISTRATION.

(a) All employers, contractors or subcontractors, including but not limited to, beauty shops, cleaning services, churches and real estate agencies who do work in the City shall register with the Income Tax Division, and shall present a complete list of all employees, subcontractors, contractors or others who do work for them whose profits, wages or earnings are not presently subject to withholding of the Ashland municipal income tax.

(b) No building permits shall be issued by the City, in any case, in which the work is to be done for hire until the contractor has first registered his name, address and principal place of business (and in the case of a corporate entity contractor, has registered the name and address of the statutory agent of the corporation) with the Income Tax Division and, if subcontractors are involved or are to be involved, such contractor shall first register the same information for subcontractors as is herein required for contractors. In the event that the identity of any subcontractor is unknown at the time of application for a building permit, such permit may be conditionally issued, upon compliance with all other provisions herein.

Upon determining any subcontractors, not known at the time of application for a building permit, the contractor shall forthwith provide the information, as required above, to the Income Tax Division. Failure to do so shall result in revocation of the building permit so issued.

(c) Commencing January 1, 1991, and annually thereafter, each owner, or his duly designated agent, of real estate property located within the City and which is rented or available for rent as of that date shall submit to the Income Tax Division of the City a list of all tenants in occupancy of such units and all units which are vacant. For purposes of this section, "rental units" includes any unit of real property which is subject to a rental agreement whether oral or written, for residential, commercial or industrial purposes.

(Ord. 60-90. Passed 10-2-90.)

229.99 VIOLATIONS; PENALTY.

(a) Whoever fails, neglects or refuses to make any return, questionnaire or declaration required by this chapter, or who refuses to pay the Ashland Municipal income tax, or the penalties and interest thereon imposed by this chapter, or who refuses to permit the Director of Finance and Public Record, or any duly authorized agent, to examine his books, records and papers, or who knowingly makes any incomplete, false or fraudulent return or who attempts to do anything whatever to avoid the payment of the whole or any part of the Ashland Municipal income tax, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both on a first offense. Upon any subsequent offense, the offender shall be imprisoned for a period of not less than two days but not more than sixty days. In addition, the Court shall impose a fine of not less than one hundred dollars (\$100.00) but not more than five hundred dollars (\$500.00). The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse him from making a return, questionnaire or declaration or from paying the tax.

(Ord. 69-88. Passed 10-4-88.)

(b) Whoever violates Section 229.08 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both.

In addition to the above penalty, any employee of the City who violates this section shall be immediately dismissed from the service of the City.

(Ord. 62-72. Passed 12-5-72.)