

**CHAPTER 183**  
**Income Tax Rules and Regulations**

<b>183.01</b>	<b>Definitions.</b>	<b>183.13</b>	<b>Status and liability of employers.</b>
<b>183.02</b>	<b>Effective period; duration of tax.</b>	<b>183.14</b>	<b>Declarations.</b>
<b>183.03</b>	<b>Imposition of tax.</b>	<b>183.15</b>	<b>Payment of tax installments.</b>
<b>183.04</b>	<b>Net business profits.</b>	<b>183.16</b>	<b>Records to be kept by employers and taxpayers.</b>
<b>183.05</b>	<b>Business allocation percentage.</b>	<b>183.17</b>	<b>Collection of deficiencies; allowance of credit for overpayment.</b>
<b>183.06</b>	<b>On what earning or net profits tax first levied.</b>	<b>183.18</b>	<b>Collection of unpaid taxes.</b>
<b>183.07</b>	<b>Fiscal years.</b>	<b>183.19</b>	<b>Identification required upon examining records.</b>
<b>183.08</b>	<b>Reconciliation with Federal return.</b>	<b>183.20</b>	<b>Application.</b>
<b>183.09</b>	<b>Return and payment of tax.</b>	<b>183.21</b>	<b>Split-payrolls.</b>
<b>183.10</b>	<b>Collection at source.</b>	<b>183.22</b>	<b>Withholding statements.</b>
<b>183.11</b>	<b>Returns of tax withheld and payment.</b>	<b>183.23</b>	<b>Vacation pay.</b>
<b>183.12</b>	<b>Limitation on credit for tax paid at source.</b>	<b>183.99</b>	<b>Penalty.</b>

**183.01 DEFINITIONS.**

(a) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Business allocation percentage" means the average percentage arrived at by applying the formula set forth in Section 181.03(h). The business allocation percentage is the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to be allocated as having been made within the Municipality within the meaning of the provisions of Section 181.03.
- (2) "Place of business" means:
  - A. 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.
  - B. A taxpayer does not have a regular place of business outside the Municipality solely by consigning goods to an independent factor or contractor outside the Municipality for sale.

(b) The definitions of the terms “taxpayer”, “association”, “business”, “corporation”, “employee”, “employer”, “net profits”, “nonresident”, “person”, “resident” and “other entity” shall be the same as set forth in Section 181.01  
(Res. 128. Passed 9-3-68.)

### **183.02 EFFECTIVE PERIOD; DURATION OF TAX.**

(a) The tax imposed by Sections 181.01 through 181.13 is effective as to income and profits earned or accruing on and after October 1, 1968, and payroll deductions must be made against all salaries, wages, commissions, bonuses and other compensation earned or accruing on and after that date.

(b) This chapter shall continue effective insofar as the levy of taxes is concerned until terminated or otherwise amended by Council.  
(Res. 128. Passed 9-3-68; Res. 159. Passed 4-2-73.)

### **183.03 IMPOSITION OF TAX.**

#### **(a) Resident Employees.**

- (1) In the case of the residents of the Municipality an annual tax at the rate in effect under the Ordinance is imposed on all salaries, wages, commissions and other compensation earned or accrued on and after October 1, 1968. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under Section 181.03(a), the source of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings, wherever earned or paid, are taxable.
- (2) The following are items which are subject to the tax:
  - A. Salaries, wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after October 1, 1968.
    1. As an officer, director or employee of a corporation (including charitable and other nonprofit corporations), joint stock association or joint stock company;
    2. As an employee (as distinguished from a partner or member) of a partnership, limited partnership, or any other form of unincorporated enterprise owned by one or more persons;
    3. As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by an individual owner;
    4. As an officer or employee (whether elected, appointed, or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the State or any of the political subdivisions thereof;
    5. As an officer or employee (whether elected, appointed, or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the United States government or of a corporation created and owned, or controlled by the United States government or any of its agencies;
    6. As an employee of any other entity or person.

- B. Wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after October 1, 1968.
    - 1. Whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production, or piece-work rates; and
    - 2. Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other nonprofit corporations), governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section or unit, or any other entity.
  - C.
    - 1. Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after October 1, 1968, regardless of how computed, by whom or wheresoever paid.
    - 2. If amounts received as a drawing account exceed the commissions earned, the tax is payable on the gross amounts received.
    - 3. Amounts received from an employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose of determining his net profits taxable under Chapter 181.
    - 4. If such commissions are included in the net earnings of a trade, business, profession, enterprise, or activity regularly carried on by such individual and therefore subject to tax under Section 181.03(c), they shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Section 183.04(a).
  - D. The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to taxation under Chapter 181.
  - E. Domestic servants are subject to Municipal tax under this chapter but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Municipal Income Tax Department.
- (b) Nonresidents.
- (1) In the case of individuals who are nonresidents of the Municipality, there is imposed under Chapter 181, an annual tax at the rate in effect under the Ordinance, on all salaries, wages, commissions and other compensation, earned or accruing on and after October 1, 1968, for work done or services performed or rendered within the Municipality, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property.

- (2) The items subject to tax under this section are the same as those listed and defined in subsection (a) hereof. For methods of computing the extent of such work or services performed within the Municipality, and cases involving compensation for personal services partly within and partly outside the Municipality, see Section 183.10.  
(Res. 128. Passed 9-3-68.)

#### **183.04 NET BUSINESS PROFITS.**

(a) Net Business Profits in General.

- (1) In amplification of the definition of the term "net profits" as set forth in Section 181.02, but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished:
- A. Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal income tax must in each instance be used.
  - B. Where the books and records are kept on an accrual basis, long-term contract basis, or installment basis, and said basis is used in the filing of Federal income tax returns, the same basis must be used for the purpose of this tax.
  - C. If the return is made on a cash basis, gross profit shall include commissions, fees, and interest earned, plus the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, closes-in-action, and services, except as hereinafter provided.
  - D. If the return is made on an accrual basis, gross profit shall include commissions, fees, and interest earned, plus the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, closes-in-action, and services, except as hereinafter provided.
  - E. From gross profit there shall be subtracted allowable expense to arrive at the net profits subject to tax.
  - F. All ordinary and necessary expense of doing business, including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for salary or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise).
  - G. If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty not compensated for by insurance or otherwise, or property used in the trade or business, but the amount may not exceed that recognized for the purpose of Federal income tax.
  - H. Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal income tax.
  - I. Only taxes directly connected with the taxpayer's business may be claimed as a deduction. If for any reason the income from property is not subject to tax, then the tax on and other expenses of said property are not deductible. In any event, the following taxes are not deductible from income:

1. The tax under Chapter 181;
  2. Any Federal taxes based upon income;
  3. Gifts, estate or inheritance taxes; and
  4. Taxes or special assessments for local benefits or improvements to property which tend to appreciate the value thereof.
- J. Capital gains and losses (including gains or losses from the sale, exchange or other disposition of depreciable business property, and real property used in the taxpayer's trade or business) shall not be taken into consideration in arriving at net profits earned.
- K. If the taxpayer is a nonresident, only the amount of net profits applicable to the activities of the business in the Municipality shall be subjected to tax. If the nonresident taxpayer's records do not disclose the actual net profits for the Municipal branch, office, store or activity, separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct, in view of all the known circumstances, the Finance Director will make a reallocation based upon gross receipts or any other basis which shall, under the circumstances of the case, more accurately reflect the net profits.
- L. In general, all business expense recognized and to the extent allowed as such for the purpose of determining Federal income tax will be recognized and allowed for, determining Municipal income tax under the provisions of this chapter. However, all expense connected with the acquisition or carrying of securities, the income from which is not recognized as taxable under this chapter, may not be deducted in determining taxable net profits hereunder.
- M. In general, unearned income is not to be included in computing the tax levied hereunder. Income from intangibles by way of dividends, interest and the like, should not be included if the property from which such income is derived is subject to taxation under the Intangible Personal Property Tax Laws of the State, or is specifically exempted from taxation under said laws.
- N. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.
- (2) Following are the circumstances under which, in any instance, the rental of any real property shall or shall not be deemed to be a business activity:

- A. Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of \$100 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based upon a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$100 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds \$100 per month; and provided further that the person who operates a rooming house shall be considered in business whether or not the gross income exceeds \$100 per month.
- B. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- C. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- D. Real property, as the term is used in this chapter, shall include commercial property, residential property, farm property, and any and all other types of real estate.
- E. In determining the taxable net income from rentals, the deductible expense shall be of the same nature, extent and amount as are allowed by the Internal Revenue Department for Federal income tax purposes.
- F.
  - 1. Residents of the Municipality are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the Municipality, and on all properties located outside the Municipality, the net income of which is not subject to city income tax in said other community. In the case of residents of the Municipality, if the net income of properties located outside the Municipality is subject to city income tax in another community, then said net income will not be subject to City income tax in the Municipality.
  - 2. Nonresidents of the Municipality are subject to such taxation only if the real property is situated within the Municipality. Nonresidents, in determining whether gross monthly rentals exceed \$100, shall take into consideration only real estate situated within the Municipality.
- G. Income from royalties or copyrights is not to be included.

(b) Residents.

- (1) In the case of trades, businesses, professions, other activities, enterprises or undertakings conducted, operated, engaged in, prosecuted, or carried on by residents of the Municipality, there is imposed an annual tax at the rate in effect under the Ordinance, on the net profits earned or accruing on and after October 1, 1968.
- (2) For the purpose of construing Section 181.03(c) and (d), the term residents in the phrase conducted by residents of the Municipality, will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, proprietors, or other participants in its profits.
- (3) Generally, a partnership, association or other unincorporated enterprise owned by two or more persons will be taxed as an entity. However, in the case of a nonresident partnership, association, or unincorporated enterprise which cannot be reached or taxed directly by the Municipality, or if only part of its earnings may be directly taxed, then in either such case, resident partners, co-owners, proprietors, or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits, or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon.
- (4) The tax imposed under Section 181.03(c) is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise, or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the Municipality.

(c) Nonresidents.

- (1) In the case of a nonresident individual, partnership, association, fiduciary, or other entity (other than a corporation) engaged in the conduct, operation or prosecution of any trade, business, profession, enterprise, undertaking or other activity, there is imposed an annual tax at the rate in effect under the Ordinance on the net profits (earned or accruing on and after October 1, 1968) of such trade, business, profession, enterprise, undertaking or other activity if, and to the extent, conducted in or derived from activity in the Municipality.
- (2) A nonresident entity within the meaning of Section 181.03(e) which has a branch, office, store, warehouse or other place or places in which the entity's business is transacted, located in the Municipality, shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through such Municipal branch, office, store, warehouse or other place of business, including billings made on such transactions, services rendered, shipments made, goods, chattels, merchandise and the like, sold, or commissions, fees or other remuneration or payments earned.

- (3) In the case of the partnership, association or other unincorporated business owned by one or more persons the tax, generally, shall be upon said partnership, association or business enterprise as an entity and not ordinarily upon the partners or members thereof. However, the provisions of subsection (b) hereof are applicable to render taxable against such resident partners or members their distributive share of any profits of such nonresident entity not taxable under this chapter.
  - (4) In determining the proportion or amount of the taxable net profits of a nonresident business entity having a place or places of business within and outside the Municipality, such business entity may at its option use and apply the business allocation percentage formula set forth in Section 181.03(h). For explanation of formula, see Section 183.05.
- (d) Corporations.
- (1) In the case of a corporation doing business in the Municipality, whether domestic or foreign, and whether domiciled in the Municipality or elsewhere, there is imposed an annual tax at the rate in effect under the Ordinance on that part of the net profits (earned or accruing on and after October 1, 1968) of such corporations, which is earned by such corporations as a result of work done or services performed or rendered and business or other activities conducted in the Municipality.
  - (2) The provisions of subsection (c)(2) hereof are applicable to such corporations.
  - (3) A corporation doing business both within and outside the Municipality may, in determining the part of the net profits which are taxable under Chapter 181, at its option:
    - A. Use the usual accounting system of the taxpayer corporation, so long as said usual accounting system shall be one acceptable to the Federal Internal Revenue Department as evidenced by acceptance and approval of income tax returns filed therein; or
    - B. Use the business allocation percentage formula set forth in Section 181.03(h).(Res. 128. Passed 9-3-68; Res. 452. Passed 7-13-88.)

**183.05 BUSINESS ALLOCATION PERCENTAGE.**

- (a) (1) At the option of a corporate taxpayer or a nonresident business entity, such taxpayers may, but are not obliged to, use the formula set forth in Section 181.03 to compute the percentage of their entire net profits (derived from activities both within and outside the Municipality) which is taxable under Chapter 181 and to determine the tax payable to the Municipality thereunder.
- (2) If the taxpayer did not have a place of business outside the Municipality during the period covered by any declaration or return required under Chapter 181, its business allocation percentage is 100%; in other words the taxpayer is required to pay a tax at the rate in effect under the Ordinance on the entire net profit of the business.
- (3) If the taxpayer had a place or places of business outside the Municipality and was doing business in the Municipality during such period, the business allocation percentage shall be computed on the basis as set forth in Section 181.03(h).

- (4) The business allocation percentage is computed by determining the percentages which Municipal real and tangible personal property bears to all real and tangible personal property (including that situated in the Municipality) of taxpayer wheresoever situated; which the Municipal business sales bear to taxpayer's entire business sales wheresoever derived (including those derived from the Municipality); and which payrolls paid by taxpayer within the Municipality bear to taxpayer's entire payroll wheresoever paid (including the Municipal payrolls); adding together the three percentages so arrived at, and dividing the total by three.
- (5) However, if one of the factors (property, sales or payrolls) is missing, the other two percentages are added and the sum is divided by two, and if two of the factors are missing, the remaining percentage is the business allocation percentage.

A. Example 1:

Corporation having places of business in Montpelier, Detroit and Cleveland.

Montpelier real and tangible personal property \$10,000. All real and personal property (Montpelier, Detroit, Cleveland) \$100,000. Percentage: 10%.

Montpelier sales \$15,000. All sales \$75,000. Percentage : 20%.

Montpelier payroll \$6,000. All payroll \$20,000. Percentage: 30%.  
Business Allocation Percentage:

$$\frac{10\% \text{ Plus } 20\% \text{ Plus } 30\%}{3} \text{ Equals } 20\%$$

B. Example 2:

Same corporation owning no real or tangible personal property anywhere. Montpelier sales \$15,000. All sales \$75,000. Percentage: 20%.

Montpelier payroll \$6,000. All payroll \$20,000. Percentage: 30%.  
Business Allocation Percentage:

$$\frac{20\% \text{ Plus } 30\%}{2} \text{ Equals } 25\%$$

## C. Example 3:

Same corporation owning real and tangible personal property in Montpelier valued at \$10,000 and owning no real or tangible personal property outside of Montpelier. Other factors same as in Examples 1 and 2 above.

Business Allocation Percentage:

$$\frac{100\% \text{ Plus } 20\% \text{ Plus } 30\%}{3} \text{ Equals } 50\%$$

- (6) After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit) and computing at the rate in effect under the Ordinance of the resultant taxable net profit.
- (7) In case it shall appear to the Finance Director that any income or capital of the taxpayer is improperly or inaccurately reflected, the Finance Director may adjust items of income, expense, deductions and capital, and disregard assets in computing any allocation percentage; provided any income directly traceable thereto is also excluded from entire net income so as equitable to determine the tax.

(b) Explanation of Property Factor. The percentage of the taxpayer's real and tangible personal property within the Municipality is determined by dividing the net book value (during the period covered by the report) of such property within the Municipality, without deduction of any encumbrances, by the average net book value similarly computed, of all such property within and without the Municipality. Only property owned by the taxpayer is considered in determining such percentage.

(c) Explanation of Sales Factor. Receipts from the following are allocable to the Municipality:

- (1) Work done and performed or services rendered in the Municipality.
- (2) Rentals from property situated in the Municipality, where the rental of such property is a usual or normal part of the taxpayer's business activity.
- (3) For the purpose of determining business allocation percentage, no account shall be given to receipts, within or without the Municipality, of income derived from intangibles (including stocks, bonds, royalties and the like) the income of which is taxable under the statutes of the State.
- (4) Compensation and other receipts for work done or services performed within the Municipality are allocable to the Municipality and taxable under Chapter 181. All amounts so received, credited, or charged by taxpayer in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of taxpayer or by any other person. It is immaterial where such amounts were payable or where they were received.

- A. Commissions or fees received by the taxpayer are allocated to the Municipality if the services for which the commissions were paid were performed in the Municipality. If the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a Municipal place of business of the taxpayer, the taxpayer's services will be deemed to have been performed in the Municipality.
  - B. Where a lump sum is received by the taxpayer in payment for services within and without the Municipality, the amount attributable to services within the Municipality is to be determined on the basis of the relative values of, or amounts of time spent in the performance of, such services within and without the Municipality.
- (5) Receipts from sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by a taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to the Municipality if the real property was situated in the Municipality. Receipts from sale of intangibles included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to the Municipality if the sales were made in the Municipality or through a regular place of business of the taxpayer in the Municipality.
- (d) Payroll Factor.
- (1) The percentage of the taxpayer's payroll allocable to the Municipality is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees within the Municipality during the period covered by the report, by the total amount of compensation of all taxpayer's employees during such period.
  - (2) Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.
  - (3) Employees within the Municipality usually include all employees regularly connected with or working out of a place of business maintained by the taxpayer in the Municipality.
  - (4) However, where an employee performed services both within and without the Municipality, the amount treated as compensation for services performed within the Municipality shall be deemed to be in the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesperson on a commission basis, the amount received by him for the business attributable to his efforts within the Municipality; in the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within the Municipality bears to the value of all his services; and in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in the Municipality bears to the total working time.

(e) Adjustment of Business Allocation Percentage Formula. Generally, the business allocation percentage formula will result in a fair apportionment of the taxpayer's net profits within and without the Municipality. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases or result in a tax evasion in others, thus not do justice to the taxpayer or the Municipality. Accordingly, in such cases, the Finance Director may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer had adopted the optional use of the business allocation percentage formula.  
(Res. 128. Passed 9-3-68.)

**183.06 ON WHAT EARNING OR NET PROFITS TAX FIRST LEVIED.**

(a) The tax referred to in Section 183.03(a) and (b) shall first be levied, collected and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees or other compensation earned on and after October 1, 1968.

(b) The tax referred to in Section 183.04(b), (c) and (d) with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting system of the taxpayer as approved by the Director of Internal Revenue) from and after October 1, 1968.

(c) See Section 183.07 for fiscal year returns.  
(Res. 128. Passed 9-3-68.)

**183.07 FISCAL YEARS.**

(a) Where the fiscal year of a trade, business, profession, enterprise, undertaking or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof as was earned on and after October 1, 1968.

(b) A fiscal year will be recognized only if it has been or may be recognized as such by the Director of Internal Revenue for the purpose of Federal income tax.  
(Res. 128. Passed 9-3-68.)

**183.08 RECONCILIATION WITH FEDERAL RETURN.**

(a) In a form satisfactory to the Finance Director, there shall be submitted with each return filed by a taxpayer subject to the Federal income tax, a reconciliation between the amount shown in the return filed with the Finance Director and the business income reported to the Federal Internal Revenue Department.

(b) If, as a result of a change made in business income by the Federal Internal Revenue Department, or by a judicial decision, an additional amount will result as owing to the Municipality, a report of such change shall be filed by the taxpayer within 30 days after receipt of the final notice of such change from the Federal authorities or after final decision of a court adjudicating any such Federal income tax liability.  
(Res. 128. Passed 9-3-68.)

**183.09 RETURN AND PAYMENT OF TAX.**

- (a) (1) On or before April 15, 1969, every taxpayer engaged in any business, the net profits of which are subject in whole or in part to the tax imposed by Chapter 181, shall make and file with the Finance Director a final return on a form furnished by or obtainable from the Finance Director. Thereafter, each such taxpayer shall, on or before April 15 of each subsequent year, make and file a final return with the Finance Director. Like returns shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by Chapter 181.
- (2) Any person who receives both compensation for services performed for an employer, in whatsoever form, and in addition receives income from any business activity or occupation not subject to withholding under Chapter 181, must file a declaration and a final return.
- (b) In all returns filed hereunder there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation, received or net profits earned (all as hereinbefore defined) by and during the preceding year and subject to said tax, together with such pertinent information as the Finance Director may require.
- (c) If the return is made for a fiscal year or for any period other than a calendar year, the said return shall be made within 3-1/2 months from the end of said fiscal year.
- (d) The return shall also show the amount of the tax imposed by Chapter 181 on such earnings, or net profits, or both.
- (e) The taxpayer making the return shall at the time of filing thereof, pay the Finance Director the amount of tax shown to be due and unpaid by the return. If, pursuant to the provisions of Section 183.15, the taxpayer has at the time of making such final return, overpaid his tax, such taxpayer shall show the amount of overpayment and may in said return either request a refund therefor, or request that the amount thereof be credited against the amount which will be required to be paid by the taxpayer on the next succeeding installment of tax which may become due.
- (f) Where any portion of the tax otherwise due shall have been paid by the taxpayer pursuant to the provisions of Sections 183.10 through 183.14, or where an income tax has been paid to another municipality, pursuant to Section 181.11, 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 final return.
- (g) Upon written request of the taxpayer, the Finance 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 and granted by the Federal Internal Revenue Department for the filing of the Federal income tax return. For payments in installments, see Section 183.15. (Res. 128. Passed 9-3-68; Res. 468. Passed 12-11-89.)

**183.10 COLLECTION AT SOURCE.**

(a) It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct from compensation paid to any employee subject to Chapter 181, the tax at the rate in effect under the Ordinance of such salary, wages, bonus, incentive payment, commission or other compensation due by said employer to said employee. The tax shall be deducted by the employer from:

- (1) All compensation paid to employees who are nonresidents of the Municipality for services rendered, work performed or other activities engaged in to earn such compensation, within the Municipality; and
- (2) From the gross amount of all salaries, wages, bonuses, incentive payments, commissions, or other form of compensation paid to employees who are residents of the Municipality, regardless of the place where the services are rendered.

(b) All employers who or which maintain an office or other place of business in the Municipality are required to make the collections and deductions in this section specified, regardless of the fact that the services on account of which any particular deduction is required as to residents of the Municipality were performed at a place of business of any such employer situated outside the Municipality.

(c) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.

(d) Commissions and fees paid to professional persons, brokers and others who are independent contractors and not employees of the payer, are not subject to withholding or collection of the tax at the source. Such taxpayers must in all instances file returns and pay the tax pursuant to the provisions of Section 181.03. (See Section 183.04(b) and (c).)

(e) In the case of employees who are nonresidents of the Municipality, the amount to be deducted is at the rate in effect under the Ordinance of the compensation paid with respect to personal services rendered in the Municipality. Where a nonresident receives compensation for personal services rendered or performed partly within and partly outside the Municipality, the withholding employer shall deduct, withhold and remit that portion of the compensation which is earned within the Municipality in accordance with the following rules of apportionment.

- (1) If the nonresident is a salesperson, agent or other employee whose compensation on the basis of commissions depends directly on the volume of business transacted by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the Municipality bears to the volume of business transacted by him within and outside the Municipality.
- (2) The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the Municipality bears to the total number of working days employed within and outside the Municipality.
- (3) If it is impossible to apportion the earnings as provided above, because of the peculiar nature of the service of the employee, or the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.

- (4) The occasional entry into the Municipality of a nonresident employee who performs the duties for which he is employed entirely outside the Municipality, but enters the Municipality for the purpose of reporting, receiving instructions, accounting, or the like, incidental to his duties outside the Municipality, shall not be deemed to take such employee out of the class of those rendering their services entirely outside the Municipality.

(f) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by way of drawing account or otherwise--see subsection (g) hereof) where such advances are in excess of commissions earned.

(g) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expense necessarily and actually incurred by the employee in the actual performance of his services, provided, that such expense must be of the kind and in the amount recognized and allowed as deductible expense for Federal income tax purposes. (Res. 128. Passed 9-3-68; Res. 452. Passed 7-13-88.)

#### **183.11 RETURNS OF TAX WITHHELD AND PAYMENT.**

(a) The deduction from salaries, wages and other compensation required to be made by employers are to begin with compensation earned on and after October 1, 1968. The first return and payment required to be made on account of such deductions shall be made, filed and paid to the Finance Director between January 1, 1969 and January 31, 1969.

(b) Each employer within the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly, or more often than monthly, and at the time of the payment of such salary, wage, commission or other compensation, the tax at the rate in effect under the Ordinance of salaries, wages, commissions or other compensation due by the said employer to the said employee and shall make a return and pay to the Finance Director the amount of taxes so deducted as follows:

- (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; and
- (4) For the three months ending December 31, on or before the following January 31.

(c) The reporting period referred to in the preceding subsections is elastic to this extent: The employer will use the same quarterly accounting period for reporting taxes withheld under Chapter 181 as he uses in reporting quarterly taxes withheld to the Federal government.

(d) Said return shall be on a form prescribed by and obtainable from the Finance Director and shall be subject to the rules and regulations prescribed therefor by the Finance Director.

(e) For adjustment of errors in returns of tax withheld by employers see Section 183.17. (Res. 128. Passed 9-3-68.)

**183.12 LIMITATION ON CREDIT FOR TAX PAID AT SOURCE.**

The failure of any employer, residing either within or outside the Municipality to collect the tax and to make any return prescribed herein, shall not relieve the employee from the payment of such tax in compliance with these regulations respecting the making of returns and the payment of taxes. (Res. 128. Passed 9-3-68.)

**183.13 STATUS AND LIABILITY OF EMPLOYERS.**

(a) Every employer is deemed to be a trustee of the Municipality in collecting and holding the tax required under Chapter 181 to be withheld, and the funds so collected by such withholding are deemed to be trust funds until the same is paid to the Municipality.

(b) Every such employer required to deduct and withhold the tax at the source is liable directly to the Municipality for the payment of such tax, whether actually collected by such employer or not. (Res. 128. Passed 9-3-68.)

**183.14 DECLARATIONS.**

(a) An employee whose entire wages, salaries, or other compensation for any taxable year will be subjected to the withholding provisions under Section 183.10, whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under Chapter 181, need not file a declaration as provided in this section.

(b) All other taxpayers (as defined in Chapter 181 and in these regulations) subject to the taxes imposed in Section 181.03, and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in subsection (a) hereof, shall file with the Finance Director a declaration of his estimated tax.

(c) On or before November 15, 1968, every such calendar year taxpayer shall file a declaration of his estimated tax for the taxable period beginning October 1, 1968 and ending December 31, 1968.

(d) A similar declaration shall be filed by each such calendar year taxpayer on or before April 15 of each subsequent year during the life of Chapter 181, and each such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.

(e) Taxpayers who or which are permitted, pursuant to the provisions of Section 183.07, to return and pay their tax upon a fiscal year basis, shall file their first declaration within 3-1/2 months after the beginning of the first fiscal year beginning after October 1, 1968, and the subsequent declaration for each year thereafter on or before the fifteenth day of the fourth month following the beginning of each such fiscal year. Those taxpayers on a fiscal year basis shall make quarterly payments on or before the fifteenth day of the fourth month and on or before the last day of the sixth, ninth and twelfth month following the beginning of such fiscal year. The first installment, equal to at least one-fourth of the estimated tax, must accompany the declaration.

(f) The estimated tax for a calendar year taxpayer may be paid in full with the filing of the declaration or in equal installments on or before April 15, June 30, September 30 and December 31.

(g) The declaration so required shall be filed upon a form furnished by or obtainable from the Finance Director. Any taxpayer who has filed an estimate for Federal income tax purposes may, in making the declaration required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal income tax. However, in addition to such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under Chapter 181.

(h) Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with Section 183.15. (Res. 128. Passed 9-3-68.)

#### **183.15 PAYMENT OF TAX INSTALLMENTS.**

(a) At the time of filing each declaration (required by Section 183.14), each taxpayer shall pay to the Finance Director one-fourth of the amount of his estimated annual tax. Thereafter, on or before June 30, September 30, and December 31 of each year during the life of Chapter 181, such taxpayer shall pay at least a similar amount. However, if any such taxpayer shall, on or before any such payment date, file an amended declaration showing an increase or decrease of the estimated tax, the installments then and thereafter due shall be increased or diminished (as the case may be) in such manner that the balance of estimated tax shall be fully paid on or before December 31 of the taxable year involved through the payment of quarterly installments in equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

(b) Taxpayers who or which are permitted to make returns and pay their tax on a fiscal year basis (see Section 183.07), may make the quarterly payments on their declaration of estimated tax pursuant to Section 183.14(e).

(c) For final returns and final adjustment of tax due, see Section 183.09. (Res. 128. Passed 9-3-68.)

#### **183.16 RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS.**

Employers and others subject to the tax under Chapter 181 are required to keep such records as will enable the filing of true and accurate returns, whether of taxes withheld at source or of taxes payable upon earnings or net profits, or both, and such records are to be preserved to enable the Finance Director, or any agent or employee of the Finance Director, to verify the correctness of the returns filed.

(Res. 128. Passed 9-3-68.)

#### **183.17 COLLECTION OF DEFICIENCIES; ALLOWANCE OF CREDIT FOR OVERPAYMENT.**

(a) If, as a result of investigation conducted by the Finance Director, a return is found to be incorrect, the Finance Director is authorized to assess and collect any underpayment of tax withheld at source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits or both. If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

(b) Should it be disclosed, either as a result of an investigation by the Finance Director or through the medium of the filing of a claim or petition for refund or credit, that an overpayment has been made, the Finance Director will refund such overpayment.

(c) The employer will in every instance be required to pay the full tax which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld the excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached.

(d) In those cases in which too much has been withheld by an employer from an employee and remitted to the Finance Director and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the Finance Director. (Res. 128. Passed 9-3-68.)

### **183.18 COLLECTION OF UNPAID TAXES.**

(a) All taxes imposed by Chapter 181 remaining unpaid when the same have become due, together with all interest and penalties thereon, become a debt due the Municipality from the taxpayer, and are recoverable as other debts by suit instituted by the Law Director.

(b) Employers who or which, although obliged under Chapter 181 to withhold and remit to the Finance Director the taxes required to be withheld at the source (Section 183.10), shall fail to so withhold or remit, become liable to the Municipality in a civil action to enforce the payment of the debt created by such failure.

(c) When a final return is filed as prescribed in Section 183.09 hereof and a deficiency is determined to be due to the Municipality, action to collect the same shall not be commenced after two years from the due date of said return, and when a taxpayer fails to file a return, action to collect tax due to the Municipality shall not be commenced after five years from the due date of said return. (Res. 128. Passed 9-3-68.)

### **183.19 IDENTIFICATION REQUIRED UPON EXAMINING RECORDS.**

Agents and employees charged with the duty of inspection or auditing of records of employers and taxpayers will carry proper identification, which shall be subject to examination by any person whose records are sought to be examined. (Res. 128. Passed 9-3-68.)

### **183.20 APPLICATION.**

This chapter is inapplicable to any person or corporation upon whom or which it is beyond the legal power of Council to impose the tax; it is likewise inapplicable as to any property, income, or profits (or part thereof) as to which it is beyond the legal power of Council to levy the tax. (Res. 128. Passed 9-3-68.)

### **183.21 SPLIT-PAYROLLS.**

(a) In the case of hourly employees, where a payroll continues past September 30, 1968, and said payroll does not end until a period in October, 1968, said payroll shall be considered a split-payroll, and as such said payroll will not be subject to withholding tax under Chapter 181, effective October 1, 1968. That is, only the first full pay for hourly employees earned after October 1, 1968, and all payrolls thereafter, will become subject to withholding under Chapter 181.

(b) All salaried employees paid on a calendar month will be subject to withholding under Chapter 181, as of October 1, 1968. (Res. 128. Passed 9-3-68.)

**183.22 WITHHOLDING STATEMENTS.**

The Finance Director shall have the authority to require all employers to file employees earning reports resembling Federal Form N-2 as of December 31, 1989 and at any subsequent date thereafter. Further, the Finance Director shall have the authority to require employers as of December 31, 1989, or any subsequent date, to file with the Municipality, a reconciliation of total payrolls reconciled with payroll amounts reported subject to the Municipal income tax. (Res. 128. Passed 9-3-68; Res. 468. Passed 12-11-89.)

**183.23 VACATION PAY.**

Vacation pay paid in 1968 will not be subject to withholding deductions under Chapter 181. Vacation pay paid in 1969, and in all subsequent years, will be subject to withholding deductions under Chapter 181. (Res. 128. Passed 9-3-68.)

**183.99 PENALTY.**

(a) The following shall be considered violations of Chapter 181:

- (1) Failing, neglecting or refusing to make any return or declaration required by Chapter 181;
- (2) Making any incomplete, false or fraudulent return;
- (3) Failing, neglecting or refusing to pay the tax, penalties or interest imposed by Chapter 181;
- (4) Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the Finance Director;
- (5) Refusing to permit the Finance Director or any duly authorized agent or employee to examine books, records, and papers and Federal income tax returns relating to the income or net profits of the taxpayer;
- (6) Failing to appear before the Finance Director and to produce books, records, Federal income tax returns, and papers relating to the income or net profits of a taxpayer under order or subpoena of the Finance Director;
- (7) Refusing to disclose to the Finance Director any information with respect to the income or net profits of a taxpayer;
- (8) Failing to comply with the provisions of Chapter 181 or any order or subpoena of the Finance Director authorized hereby; or
- (9) Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by Chapter 181.

(b) Any person who violates any of the provisions of subsection (a) hereof shall be guilty of a misdemeanor and shall be fined not more than \$500 or imprisoned not more than six months or both, for each offense.

(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 or declaration, from filing such form or from paying the tax. (Res. 128. Passed 9-3-68.)