

CITY OF CLAYTON, OHIO

ORDINANCE NO. O – 06 - 24 - 09

AN ORDINANCE APPROVING AMENDMENTS TO CHAPTER 183, INCOME TAX SECTIONS 183.012, 183.013, AND 183.081 OF THE ADMINISTRATIVE CODE OF THE CITY OF CLAYTON, OHIO TO PROVIDE FOR IMPOSITION OF ANNUAL INCOME TAX RATE OF TWO AND ONE HALF PERCENT (2.50%) PER YEAR ON INCOME AND RESTORING A ONE HUNDRED PERCENT (100%) CREDIT FOR TAXES PAID BY RESIDENTS TO OTHER MUNICIPALITIES ON SUCH INCOME ON OR AFTER JANUARY 1, 2026, WHEN THE CITY'S INCOME TAX RATE IS INCREASED TO TWO AND ONE HALF PERCENT (2.50%) FOR THE PURPOSES SPECIFIED HEREIN AND DECLARING AN EMERGENCY

WHEREAS, Council of the City of Clayton, Ohio has conducted an on-going review of its rate of income taxation, and has determined it to be in the best interests of the City and its residents to modify the City's rate of income taxation from one and one-half percent (1.50%) to two and one half percent (2.50%) per year on income on or after January 1, 2026 in order to effectively address the continuing needs of the City and its residents, and more specifically, if passed, the two and one half percent (2.50%) income tax would be allocated as follows:

- (1) One and one-half percent (1.50%) to the General Fund.
- (2) One-half percent (.50%) to the Police Fund.
- (3) One-half percent (.50%) to the Fire Fund; and

WHEREAS, Council of the City of Clayton, Ohio has further determined it to be in the best interests of the City and its residents to restore the one hundred percent (100%) nonrefundable tax credit for tax paid to other municipalities on or after January 1, 2026, when the City's income tax rate is increased to two and one half percent (2.50%), **and further, said 100% tax credit restoration could only be reduced by a vote of the electors of Clayton; and**

WHEREAS, the electors of the City of Clayton, Ohio shall vote on this rate of income taxation and income tax credit at the primary election to be held on November 5, 2024.

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

1. That Clayton Codified Ordinance Chapter 183, Income Tax, Sections 183.012, 183.013, and 183.081 as set forth in the attached **Exhibit A**, incorporated herein by reference as if fully set forth herein, are hereby so amended.
2. That all other existing sections of Chapter 183 of the Administrative Code of the Codified Ordinances of the City of Clayton, Ohio shall remain in full force and effect.

3. That those remaining provisions of Chapter 183 which require modification as a result of the amendments adopted herein, shall be so modified.
4. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
5. That Council hereby finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in open meetings of Council open to the public in compliance with all legal requirements.
6. That in accordance with Clayton Charter Section 4.031(B) the requirement that this ordinance be read on two (2) different days is dispensed with by affirmative vote of at least five (5) of the members of Council.
7. That unless this Ordinance is immediately enacted the public peace, health, safety and welfare will be detrimentally affected because unless the City income tax is increased as delineated herein, City services will need to be cut and additional cost-saving measures taken and, in order to timely forward this Ordinance to the Montgomery County Board of Elections before the deadline for same to appear on the November 5, 2024 ballot, it is necessary that this legislation become immediately effective. Accordingly, pursuant to Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.
8. ***The Clerk of Council is hereby directed forthwith to certify a true copy of this Ordinance to the Board of Elections of Montgomery County, Ohio, immediately upon its passage.***

ADOPTED BY COUNCIL ON JUNE 20, 2024.

AUTHENTICATION:


Mayor (Presiding Officer of Council)


Clerk of Council

APPROVED AS TO FORM:

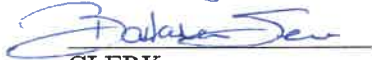

Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper Date of publication

EdinRegisterHerald June 26, 2024



CLERK

EXHIBIT A

CHAPTER 183

Municipal Income Tax

Income Tax Effective January 1, 2024

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183.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE

183.011 AUTHORITY TO LEVY TAX

(A) The tax on income and the withholding tax established by this Chapter 183 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 183 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

183.012 PURPOSES OF TAX; RATE

(A) To provide funds for the purposes of general municipal operations and functions including the costs of personnel, maintenance, new equipment, extensions and improvements of Municipal services and facilities and capital improvements of the City of Clayton there shall be and is hereby levied a two and one-half percent (2.50%) tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.

183.013 ALLOCATION OF FUNDS

(A) The proceeds of the two and one-half percent (2.50%) tax levied on income shall be paid to the City as follows:

- (1) One and one-half percent (1.50%) to the General Fund.
- (2) One-half percent (.50%) to the Police Fund.
- (3) One-half percent (.50%) to the Fire Fund.

183.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, municipal income tax Ordinance 11-15-16, effective January 1, 2016, comprehensively amends Chapter 181 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality on and after January 1, 2016.

183.02 EFFECTIVE DATE

(A) Ordinance 11-15-16, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 183 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 11-15-16, does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

183.08 CREDIT FOR TAX PAID

183.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

(A) Tax Credit

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

The aforementioned one hundred percent (100%) tax credit may only be reduced if approved by vote of the electors of the Municipality of Clayton.

(2) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such Clayton resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.