

TITLE NINE - Taxation  
 Chap. 191. Earned Income Tax.  
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**CHAPTER 191**  
**Earned Income Tax**

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**CROSS REFERENCES**

Power to levy - see Ohio Const., Art. XVIII, Sec. 3  
 Collection by Finance Director - see CHTR. Sec. 6.01  
 General provisions - see CHTR. Sec. 8.01  
 Payroll deductions - see Ohio R.C. 9.42  
 Municipal income taxes - see Ohio R.C. Ch. 718

**191.01 PURPOSE.**

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City, including the payment of debt service charges on note and bond issues for such purposes, there shall be, and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. (Ord. 90-91. Passed 6-17-91.)

**191.02 DEFINITIONS.**

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

- (a) "Board of Review" means the Board created by and constituted as provided in Section 191.13.
- (b) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, pass-through entity, corporation or any other entity. "Business" conducted within the City includes the direct or indirect ownership of an interest in a pass-through entity that conducts business within the City.
- (c) "City" means the City of Tiffin, Ohio.
- (d) "Commissioner of Taxation" means the person so designated and appointed by the Director of Finance and approved by Council or the person executing the duties of the aforesaid Commissioner.
- (e) "Compensation" means all salaries, wages, commissions and other remuneration for work done or services performed. For taxable years beginning on or after January 1, 2004, "compensation" of an employee means "qualifying wages", within the meaning of Ohio R.C. 718.03.
- (f) "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, or any unincorporated entity treated as a corporation for federal income tax purposes. For taxable years beginning on or after January 1, 2004, "corporation" includes a "combined company", an "electric company" and a "telephone company" all as defined in Ohio R.C. 5727.01.
- (g) "Employer" means an individual, pass-through entity, 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, or other compensation basis.
- (h) "Fiscal year" means an accounting period of twelve months, ending on any day other than December 31.
- (i) "Net profits" means the net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes and, in the case of a pass-through entity, without deduction of salaries paid to owners, or of taxes imposed by this chapter and federal, state, municipal and other taxes based on income. For taxable years beginning on or after January 1, 2004, "net profits" means:
  - (1) In the case of a corporation, "adjusted federal taxable income", as that term is defined in Ohio R.C. 718.01(A)(1)(a)-(f);
  - (2) In the case of a pass-through entity, "adjusted federal taxable income", as that term is defined in Ohio R.C. 718.01(A)(1)(g); and
  - (3) In the case of a sole proprietorship, the profit shown by the individual on Internal Revenue Service Schedule C, Schedule E, and Schedule F.
- (j) "Nonresident" means an individual domiciled outside the City of Tiffin.
- (k) "Nonresident owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in a pass-through entity that conducts business in the City and a corporation that has a direct or indirect ownership interest in a pass-through entity that conducts business in the City.
- (l) "Owner" means an individual, partner, shareholder, member, or any other person having an ownership interest in a pass-through entity.

- (m) "Pass-through entity" has the same meaning as provided in Ohio R.C. 718.14(A)(2).
- (n) "Person" means every natural person, pass-through entity, fiduciary or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to a pass-through entity, shall mean the owners thereof, and as applied to a corporation, the officers thereof.
- (o) "Resident" means an individual domiciled in the City of Tiffin.
- (p) "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is made. Unless approved by the Commissioner of Taxation, the taxable year of an individual shall be a calendar year.
- (q) "Taxpayer" means a person, whether an individual, pass-through entity, or any corporation or other entity, the net profits or compensation of which are subject to the tax imposed by this chapter, whether that tax is imposed on the entity itself or the owners of the entity. The singular shall include the plural, and the masculine shall include the feminine and neuter.  
(Ord. 03-46. Passed 8-4-03.)

### **191.03 IMPOSITION OF TAX.**

(a) Subject to the provisions of Section 191.16, an annual tax for the purposes specified in Section 191.01 shall be imposed on and after January 1, 2005, at the rate of one and three-fourths percent (1 3/4%) per year upon the following:

- (1) On all compensation and on net profits from the operation of a business earned during the effective period of this chapter by a resident.
- (2) On all compensation and on net profits from the operation of a business earned during the effective period of this chapter by a nonresident for work done or services performed or rendered or the conduct of a business, profession or other enterprise or activity in the City, subject to the limitations provided in Ohio R.C. 718.011.
- (3) On a resident owner's distributive share of the net profits of a pass-through entity earned during the effective period of this chapter from business conducted by the pass-through entity regardless of where that business is conducted, except as modified by Ohio R.C. 718.01(F)(9) and 718.01(H).
- (4) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned during the effective period of this chapter from business conducted in the City, whether or not that pass-through entity has an office or place of business in the City.
- (5) On the portion attributable to the City of the net profits earned during the effective period of this chapter of a corporation derived from business conducted in the City, whether or not that corporation has an office or place of business in the City. The tax imposed by this subsection (a)(5) on the net profits of an electric company, combined company, or telephone company shall be subject to, and be in accordance with Ohio R.C. Chapter 5745.
- (6) A. On all prizes, awards and income derived from gaming, wagering, lotteries, or schemes of chance by residents, regardless of where derived, and as reported on IRS Form W-2G, IRS Form 5754 or any other form required by the Internal Revenue Service to report such prizes, awards and income.

B. On all prizes, awards and income derived from gaming, wagering, lotteries, or schemes of chance by nonresidents from sources within the City and as reported on IRS Form W-2G, IRS Form 5754 or any other form required by the Internal Revenue Service to report such prizes, awards and income.

(b) The income tax imposed by subsection (a)(4) hereof upon nonresident owners shall be collected and remitted pursuant to Section 191.06(f).

(c) The portion of the net profits attributable to the City of a taxpayer conducting a business both within and without the boundaries of the City shall be determined as provided in Ohio R.C. 718.02 and in accordance with rules and regulations adopted by the Commissioner of Taxation pursuant to this chapter.

(d) Filing of Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Commissioner of Taxation. On and after January 1, 2004, the Commissioner of Taxation shall accept for filing a consolidated return from an affiliated group of corporations subject to the tax imposed by this chapter if the affiliated group filed for the same taxable year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code of 1986, as amended. Only corporations subject to the tax imposed by this chapter may be included in that consolidated return filed for the City. If an affiliated group of corporations subject to the tax imposed by this chapter properly files a consolidated return in accordance with this subsection (d)(1) hereof for any taxable year beginning on or after January 1, 2004, the affiliated group must file a consolidated return for each succeeding taxable year in which it files a consolidated return for federal income tax purposes unless, on or before the due date (taking into account extensions of time properly granted) of the return for a taxable year, the affiliated group obtains the permission of the Commissioner of Taxation to cease filing a consolidated return for that year.

(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, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting only a portion of its total business, the Commissioner of Taxation shall require such additional information as the Commissioner of Taxation deems necessary to ascertain whether net profits are properly allocated to the City. If the Commissioner of Taxation finds the net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with a division, branch, factory, office, laboratory or activity, or by some other method, the Commissioner of Taxation shall make such adjustments to, and allocation of, net profits to fairly and reasonably reflect the proper allocation of net profits to the City.

- (e) **Exemptions.** The tax provided for herein shall not be levied on the following:
- (1) Pay or allowance of active members of the Armed Forces of the United States or the income 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.
  - (2) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
  - (3) Proceeds of insurance paid by reason of the death of the insured, pensions, including industrial pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
  - (4) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when conducted by a bona fide charitable, religious or educational organizations and associations, recognized as such under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
  - (5) Alimony received.
  - (6) Personal earnings of any natural person under eighteen years of age.
  - (7) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
  - (8) Interest, dividends and other intangible income, as defined in Ohio R.C. 718.01(A)(5).
  - (9) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except income from the operation of a business or other activities conducted in the City.
  - (10) 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 taxes on income derived from interstate commerce.
  - (11) Compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio, or any other act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

(f) **Deductions of Employee Business Expenses.** The only expenses that can be deducted against salary and wage income are those employee business expenses deductible for federal income tax purposes in determining adjusted gross income, unless otherwise allowed on a uniform and consistent basis by the Commissioner of Taxation. The total of such expenses cannot exceed the employee's related W-2 wage income from the same employer. Notwithstanding anything to the contrary in subsection (f) hereof, if a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for federal income tax purposes reported on Form 2106 attached to the taxpayer's federal income tax return filed for that taxable year, the taxpayer shall determine taxable income to the City by deducting the same amount deducted for federal income tax purposes and reported on the taxpayer's Form 2106 for that taxable year and shall attach a copy of Form 2106 filed with the taxpayer's federal income tax return to the taxpayer's City income tax return for that taxable year. (Ord. 04-24. Passed 5-3-04.)

(g) A taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship may deduct from that net profit the amount that the taxpayer paid during the taxable year to a health savings account of the taxpayer and for medical care insurance premiums for the taxpayer, the taxpayer's spouse, and dependents as defined in Ohio R.C. 5747.01. The deduction shall be allowed to the same extent the taxpayer is entitled to deduct the premiums on internal revenue service form 1040. The deduction allowed under this section shall be net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received by the taxpayer during the taxable year. (Ord. 08-43. Passed 9-2-08.)

#### **191.04 EFFECTIVE DATE.**

The tax imposed by this chapter shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1992. (Ord. 90-91. Passed 6-17-91.)

#### **191.05 RETURN AND PAYMENT OF TAX.**

(a) Each taxpayer who engages in business, or whose compensation is subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return no later than the fifteenth day of the fourth month following the end of the taxpayer's taxable year with the Commissioner of Taxation on a form or forms furnished by the Commissioner or on a generic form as prescribed by Ohio R.C. 718.05 setting forth:

- (1) The aggregate amount of compensation earned by the taxpayer, and/or gross income from such business less allowable expenses incurred in the acquisition of such gross income earned during the taxable year and subject to the tax;
- (2) The amount of the tax imposed by this chapter on such compensation and net profits; and
- (3) Such other pertinent statements, information returns, or other information as the Commissioner of Taxation may require, including, when required by the Commissioner of Taxation, a statement that the figures used in the return are the figures used in the taxpayer's federal income tax return for that taxable year, adjusted to set forth only such income as is taxable under the provisions of this chapter.

For taxable years beginning on or after January 1, 2005, the City income tax return of a business the net profits of which are subject to tax under this chapter may be filed by using the Ohio business gateway, as described in Ohio R.C. 718.051.

(b) The Commissioner of Taxation may extend the time for filing the annual City income tax return upon the request of the taxpayer for a period of not to exceed six months, or three months beyond any extension requested of or granted by the Internal Revenue Service for the filing of the taxpayer's federal income tax return for the same taxable year, provided the taxpayer files a copy of such request for extension of time to file the federal income tax return, accompanied by payment of the amount of City income tax owed by the taxpayer, by the date the City income tax return is due, without regard to any extension. For taxable years beginning on or after January 1, 2004, the extended due date of the City income tax return shall be the last day of the month following the month to which the due date of the taxpayer's federal income tax return for the same taxable year has been extended. For taxable years beginning on or after January 1, 2005, a taxpayer who receives an extension for filing the federal income tax return will receive an extension for filing the City income tax return for the same taxable year by complying with Ohio R.C. 718.051(B), but such taxpayer must pay any City income tax owed by the unextended due date for filing the City income tax return. 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.

(c) The taxpayer making the City income tax return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon. However, where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 191.06, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Sections 191.05 and 191.07, 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 return.

Subject to the limitation on the period for assessment of City income tax and claims for refund thereof prescribed by Ohio R.C. 718.12, within three months from the final determination of any federal tax liability affecting the taxpayer's City income tax liability for the same taxable year(s), such taxpayer shall make and file an amended City income tax return for such year(s) showing income subject to City income 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.

- (1) The claiming of credit on a City income tax return or declaration for amounts paid to any other municipality under the provisions of Section 191.07 shall constitute an assignment and transfer to the City of all right, title and interest of the taxpayer claiming such credit in and to any claim for refund of such amounts so paid to such other municipality. In the event the taxpayer does not remit any such refund to the City in an amount equal to the credit claimed by reason of tax payments made to another municipality and subject to reciprocity, then the taxpayer shall be treated as having a deficiency in City income tax for the taxable year for which such credit was claimed. The amount of this deficiency shall equal the difference between the credit claimed for taxes paid to the other municipality and the amount of the refund of such taxes that the taxpayer remitted to the City.
- (2) Assignment of any claim for refund to which a resident may be entitled from any other municipality shall be tentatively accepted as payment of that portion of City income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

(d) All taxpayers who owe income tax to the City must file the return required by subsection (a) hereof regardless of whether their entire tax obligation has been withheld and paid by their respective employers or by a pass-through entity.

(e) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at the taxpayer's 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. (Ord. 03-46. Passed 8-4-03.)

**191.06 COLLECTION AT SOURCE.**

(a) Each employer within or doing business in the City who or that employs one or more persons shall, at the time of payment of compensation, deduct the City income tax at the applicable rate then in effect from the gross compensation earned or received by residents, regardless of where such compensation was earned or received, and shall deduct that City income tax from the compensation earned or received from work done or services performed or rendered in the City by nonresidents. Such employer shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Commissioner of Taxation the amounts so deducted during that calendar quarter. If, however, the amount of money so withheld by an employer exceeds five hundred dollars (\$500.00) in any single month, then the return and payment for that month shall be made on or before the last day of the following month. Each employer shall be subject to the rules and regulations prescribed therefor by the Commissioner of Taxation.

(b) Notwithstanding the provisions of subsection (a) hereof, if a resident employer employs a resident who performs services in another taxing municipality that requires such employer to deduct its tax on the full amount of compensation paid to all employees engaged therein, such employer shall be required to withhold for and remit to the City only the difference, if any, between City income tax and the tax imposed by such other taxing municipality on such compensation.

(c) For taxable years beginning on or after January 1, 2007, any employer subject to this section may use the Ohio business gateway both to report the amount of City income tax withheld from qualifying wages and to remit such amounts.

(d) Such employer in collecting the City income tax shall be deemed to hold the same, until payment is made by such employer to the City, as trustee for the benefit of the City, and any such tax collected by such employer from its employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(e) However, no person shall be required to withhold the tax on qualifying wages or compensation paid domestic servants employed exclusively in or about such person's residence.

- (f) (1) Except as otherwise provided in this subsection (f), a pass-through entity that conducts business within the City and that has a nonresident owner must:
- A. Withhold City income tax at the rate specified in Section 191.03(a) on the nonresident owner's distributive share of the pass-through entity's net profits attributable to the City; and
  - B. Remit such tax to the City by the applicable dates provided in Section 191.07.
- (2) A pass-through entity subject to subsection (f) hereof that fails to collect or remit City income tax as provided in subsection (f) hereof shall be liable for the tax that it should have withheld or remitted and shall be subject to the interest and penalty provisions of Section 191.10. The nonresident owner shall receive a credit against its City income tax liability in the amount of City income tax so withheld by the pass-through entity. All claims for refund of City income tax withheld by a pass-through entity pursuant to this subsection (f) must be made by the nonresident owner within the period set forth in Section 191.11(b).

- (3) A pass-through entity is not required to withhold and remit City income tax to the extent that its nonresident owners both:
- A. File City income tax returns and declarations as provided in Sections 191.05 and 191.07, respectively, that report their distributive shares of the pass-through entity's net profits attributable to the City; and
  - B. Pay City income tax thereon.  
(Ord. 03-46. Passed 8-4-03.)

#### **191.07 DECLARATIONS.**

(a) Every taxpayer who anticipates earning any compensation or qualifying wages not subject to Section 191.06, or who engages in any business within the City, shall file with the Commissioner of Taxation a declaration setting forth such estimated income or the estimated net profits from such business activity together with the estimated tax due thereon, if any. For taxable years beginning on or after January 1, 2005, declarations of estimated net profits from any business conducted within the City and payment of estimated City income tax thereon may be made by using the Ohio business gateway, as described in Ohio R.C. 718.051.

(b) Such declaration of estimated City income tax for a taxable year that is a calendar year shall be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to City income tax for the first time.

(c) Such declaration of estimated tax shall be filed on a form or forms furnished by or obtainable from the Commissioner of Taxation or on a generic form prescribed by Ohio R.C. 718.05, which form or forms may require a statement that the taxpayer's declaration of estimated City taxable income equals the taxpayer's estimated federal taxable income as adjusted so that City taxable income includes only those items that are taxable under this chapter.

- (d) (1) Such declaration of estimated tax for a taxable year that is a calendar year shall be accompanied by payment of at least twenty-two and one-half percent (22 1/2%) of the estimated annual tax and, in the case of individuals, at least a similar amount must be paid on or before July 31 and October 31 of that taxable year and January 31 of the subsequent taxable year. A calendar year taxpayer having net profits subject to City income tax must file the declaration of estimated tax by April 15 and pay at least twenty-two and one-half percent (22 1/2%) of the estimated annual tax by that date, and at least a similar amount must be paid by June 15, September 15, and December 15 of such taxpayer's taxable year. The estimate may be amended at any time prior to the due date of the taxpayer's annual City income tax return for the taxable year for which the estimated payments are made. The annual City income tax return must be filed and any balance of City income tax that may be due must be paid on or before the due date set forth in Section 191.05. If the taxpayer has paid more than the amount of tax to which the City is entitled, a refund of the amount so overpaid shall be made or the same may be applied toward the declaration of tax due for the ensuing taxable year. Claims for refunds shall be made on forms prescribed or approved by the Commissioner of Taxation and within the time provided in Section 191.11.

- (2) An amended declaration must be filed on or before January 31 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 Commissioner of Taxation, if it appears that the original declaration made for the preceding taxable year underestimated the taxpayer's income by twenty percent (20%) or more. At such time a payment that, together with prior payment is sufficient to pay the taxpayer's entire estimated liability, shall be made. If upon the filing of the annual City income tax return required by Section 191.05 hereof, it appears that the taxpayer did not pay at least eighty percent (80%) of the City income tax liability shown on such return on or before January 31 or the date fixed by regulation, whichever is applicable, the difference between eighty percent (80%) of the taxpayer's City income tax liability and the amount of estimated tax actually paid on or before January 31 or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 191.10. However, the interest and penalty provisions of Section 191.10 shall not apply where either:
- A. The taxpayer is a resident but was not domiciled in the City on January 1 of the calendar year; or
  - B. The taxpayer has remitted on a timely basis an amount of estimated City income tax at least equal to one hundred percent (100%) of the taxpayer's City income tax liability for the preceding taxable year, provided that the return for the preceding taxable year reflected a twelve-month period, and the taxpayer filed a City income tax return for the preceding taxable year.
- (3) Such declaration shall indicate that the estimated tax is being withheld under the provisions of Section 191.06 or is being paid to another municipality.

(e) Those taxpayers having a taxable year other than the calendar year shall file a declaration on or before the fifteenth day of the fourth month after the start of each fiscal year or period, accompanied by a payment of at least twenty-two and one-half percent (22 1/2%) of the estimated annual tax shown due thereon, and shall make quarterly payments of at least a similar amount each on the fifteenth day of the sixth month, ninth month and twelfth month of the taxpayer's taxable year.

(f) An annual City income tax return shall be filed by the date prescribed by Section 191.05(a) and any balance that may be due the City shall be paid therewith in accordance with the provisions of Section 191.05.

(Ord. 03-46: Passed 8-4-03.)

#### **191.08 ADMINISTRATION; DUTIES OF DIRECTOR OF FINANCE.**

(a) It shall be the duty of the Director of Finance to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received. All cashiers handling tax moneys shall be subject directly to the Director of Finance and shall give daily accountings to the Director of Finance.

(b) It shall be the duty of the Director of Finance to enforce payment of all taxes owing the City, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(c) The Director of Finance is hereby charged with the enforcement of the provisions of this chapter and to enforce the rules and regulations adopted by the Commissioner of Taxation, subject to the approval of the Board of Review, relating to any matter or thing pertaining to the collection of City income taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments.

(d) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper account of tax due, the Director of Finance may determine the amount of tax appearing to be due the City 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.

(e) Subject to the consent of the Board of Review or pursuant to regulations approved by the Board, the Director of Finance shall have the power to compromise any interest or penalty, or both, imposed by this chapter.

(f) A Department of Taxation is hereby created within the office of the Director of Finance of the City. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by Council. The Director of Finance shall make all appointments of personnel and purchase all equipment, supplies and material for the Department of Taxation. The Department of Taxation shall be charged with the administration and operation of this chapter, under the direction of the Director of Finance. The Director of Finance shall prescribe the form and method of accounts and reports for the Department, as well as the forms for taxpayers' returns and declarations, and shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of such receipt. The Director of Finance shall also make a written report to Council annually of all moneys collected hereunder during the preceding year. (Ord. 68-24. Passed 6-10-68.)

**191.09 INVESTIGATIVE POWERS OF THE COMMISSIONER OF TAXATION;  
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) The Commissioner of Taxation, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to the City income tax for the purpose of verifying the accuracy of any return made, or if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer, and pass-through entity is hereby directed and required to furnish, upon written request by the Commissioner of Taxation or the Commissioner's duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Commissioner of Taxation is hereby authorized to order any person to appear at the office of the Commissioner of Taxation and examine any person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before the Commissioner, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal of such examination by any employer, pass-through entity or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to a tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order of subpoena of the Commissioner of Taxation authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 191.12.

(d) 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, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter is guilty of a misdemeanor of the first degree. (Ord. 03-46. Passed 8-4-03.)

#### **191.10 INTEREST AND PENALTIES.**

(a) A penalty of twenty-five dollars (\$25.00) shall be imposed on each taxpayer, pass-through entity or employer who fails to timely and properly file any return or remit any tax required by this chapter.

(b) All City income tax obligations that are delinquent shall bear interest at the rate of one and one-half percent (1 1/2%) per month on the unpaid balance.

(c) Upon recommendation of the Commissioner of Taxation, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Commissioner of Taxation to recommend abatement of penalty and interest, the Board of Review may nevertheless abate penalty or interest, or both. (Ord. 03-46. Passed 8-4-03.)

#### **191.11 COLLECTION OF UNPAID TAXES.**

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Such suit shall be brought within three years after the City income tax was due or the return was filed, whichever is later.

(b) Prosecutions for an offense made punishable under this chapter 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 (25%) or more of the compensation or net profits required to be reported, prosecutions may be commenced within six years after the commission of the offense. Taxes erroneously paid or withheld shall not be refunded unless a claim for refund is made within the time specified in Ohio R.C. 718.12(C). Interest on such refunded amounts shall be allowed to the extent provided in Ohio R.C. 718.12(D). (Ord. 03-46. Passed 8-4-03.)

**191.12 VIOLATIONS; PENALTY.**

- (a) Any taxpayer or person who:
- (1) Fails, neglects or refuses to make any return or declaration required by this chapter; or
  - (2) Makes any incomplete, false or fraudulent return; or
  - (3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
  - (4) Fails, neglects or refuses to withhold the tax from his employees or owners or remit such withholding to the Commissioner of Taxation; or
  - (5) Refuses to permit the Commissioner of Taxation or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
  - (6) Fails to appear before the Commissioner of Taxation and to produce the books, records, papers or federal income tax returns relating to the income, compensation or net profits of a taxpayer or employer upon order or subpoena of the Commissioner of Taxation; or
  - (7) Refuses to disclose to the Commissioner of Taxation any information with respect to the income or net profits of a taxpayer; or
  - (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Commissioner of Taxation authorized hereby; or
  - (9) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter

is guilty of a misdemeanor of the first degree.

- (b) The failure of any employer or taxpayer to receive or procure a return, declaration or other required form shall not excuse such employer or taxpayer from making any information return, return or declaration, from filing such form, or from paying the tax.  
(Ord. 03-46. Passed 8-4-03.)

**191.13 BOARD OF REVIEW.**

(a) A Board of Review consisting of three residents of the City shall be appointed by the Mayor with the approval of Council to serve for a term of three years. The Board of Review shall follow all rules and regulations and amendments or changes thereto, which are adopted by the Commissioner of Taxation under the authority conferred by this chapter. All rules and regulations must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection.

- (b)
- (1) Preference in appointment shall whenever possible be given to individuals whose background in business, finance or similar areas qualifies them for such duties.
  - (2) No more than two members of such Board of Review shall be members of the same political party.
  - (3) The Board shall for a term of one year elect one member as president and one member as secretary. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

- (4) If any member shall for reasons of conflict of interest disqualify himself from the Board's proceedings, the other members shall select a third member for the purpose of considering a particular matter.

(c) All hearings by the Board may be conducted privately and the provision of Section 191.09 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 Commissioner of Taxation which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Commissioner of Taxation, and the Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. An appeal of a ruling or decision of the Commissioner of Taxation must be in writing and must state why such ruling or decision is deemed incorrect or unlawful.

(e) The Board of Review shall schedule any hearings and issue its decisions in the manner and within the periods prescribed by Ohio R.C. 718.11. If the taxpayer does not waive a hearing before the Board of Review, the taxpayer may be represented before the Board as provided by law. All appeals of decisions of the Board of Review shall be made in accordance with Ohio R.C. 718.11 and 5717.011.  
(Ord. 03-46. Passed 8-4-03.)

#### **191.14 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this chapter shall be allocated and used as follows: 84% for the general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and capital improvements, including the payment of debt service charges on bonds and notes issued for that purpose, all as determined and directed by Council; 10% for Capital Improvement Fund; 4% for Park and Recreation Fund; and 2% for Street Maintenance Fund. (Ord. 09-79. Passed 12-21-09.)

#### **191.15 RECIPROCITY; CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

(a) Residents. When a resident is subject to and has paid, or has acknowledged liability for, a municipal income tax in another taxing municipality on the same income taxable under this chapter, regardless of whether such other taxing municipality allows credit to its nonresidents, such resident may claim a credit in an amount equal to the lesser of:

- (1) The amount of such tax paid to such other taxing municipality, or
- (2) The City income tax on such income taxable under this chapter.

In no case shall the credit authorized by this subsection (a) exceed the City income tax assessed under this chapter.

(b) For taxable years beginning on or after January 1, 2003, a resident owner of a pass-through entity that does not conduct business in the City and that has paid, or has acknowledged liability for, an income tax in another taxing municipality may claim a credit equal to the lesser of the following amounts:

- (1) The resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to another taxing municipality in the State; or
- (2) The resident owner's proportionate share of the amount of City income tax that would be imposed on the pass-through entity if the pass-through entity conducted business in the City.

In no case shall the credit authorized by this subsection (b) exceed the City income tax assessed under this chapter.

(c) Where applicable, the credits provided by Ohio R.C. 718.021 and 718.121 shall be available to residents.

(Ord. 03-46. Passed 8-4-03.)

#### **191.16 SAVING CLAUSE.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, 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. 68-24. Passed 6-10-68.)

#### **191.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned, and insofar as the collection of taxes levied and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 191.11 and 191.12.

(b) Annual returns for the last year in which this chapter shall be effective shall be filed on or before four months from any termination date of this chapter and any tax shown due thereon for such year which is not paid and collectable under the provisions of Sections 191.06 and/or 191.07 shall be paid within such four month period, except in those cases in which the time for filing returns and/or payment of the tax due has been extended in accordance with Section 191.05, and except for claims for reciprocity refunds properly assigned and collectable from another municipality.

(Ord. 68-24. Passed 6-10-68.)

**191.18 NO LOSS CARRY FORWARD OR CARRYBACK.**

No taxpayer may carry a net operating loss for one taxable year forward or backward to another taxable year.

(Ord. 87-33. Passed 7-6-87.)

**191.19 NO BUSINESS LOSS DEDUCTION FROM INCOME EARNED AS EMPLOYEE.**

No taxpayer may deduct a net loss from the operation of a business from compensation earned by the same taxpayer as an employee of a business.

(Ord. 87-33. Passed 7-6-87.)