

**ORDINANCE NO. 1-10**

AN ORDINANCE TO CONTINUE THE ADDITIONAL BELLEVUE CITY EARNED INCOME TAX OF ½ PER CENT, AND DECLARING AN EMERGENCY.

WHEREAS, maintenance of City revenues is necessary to maintain satisfactory levels of municipal operations; and

WHEREAS, the continuance of the City income tax of 1½ per cent is the only reasonable method of generating such needed revenues; and

WHEREAS, a continuance of the increase in the City income tax from 1% to 1½% was passed five years ago and expires at the end of the calendar year 2010; and

WHEREAS, the Ohio Revised Code provides for certain procedures to effectuate and maintain municipal income tax in excess of 1%;

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Bellevue, Erie, Huron and Sandusky Counties, Ohio:

SECTION 1: It is hereby proposed that the 1½% income tax as set forth in Section 193.03 (a) of the codified ordinances of the City of Bellevue be continued for an additional five (5) years.

SECTION 2: The continuance of the additional ½ per cent portion of the 1½% income tax shall be voted upon by the registered voters of the City of Bellevue at the primary election to be held on Tuesday, May 4, 2010.

SECTION 3: That the 1½ % income tax continuance proposed herein, if passed, shall be in effect only for calendar years 2011, 2012, 2013, 2014, and 2015, at which time the said ½ per cent continuance addition to the original 1% shall automatically expire.

SECTION 4: Should the levy requested herein fail, the 1% income tax in effect prior to 1986 shall remain in full force and effect.

SECTION 5: Should this levy pass and expire at the end of 2015, the 1% originally in effect prior to 1986 shall continue in effect thereafter starting with calendar year 2016.

SECTION 6: That the City Council of the City of Bellevue hereby authorizes and directs the Sandusky County, Huron County and Erie County Boards of Elections to conduct an election as hereafter specified on said income tax renewal.

SECTION 7: The ballot for the election shall contain the following language (or otherwise as recommended and specified by the Board of Elections);

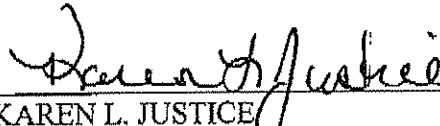
"Shall the ordinance providing for the continuance of the ½ per cent levy on income for the General Fund of the City of Bellevue for an additional five years be passed?"

FOR THE INCOME TAX  
AGAINST THE INCOME TAX

SECTION 8: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, and welfare of the City of Bellevue, and for the further specific reason that it will be necessary to present this Ordinance to the specified Boards of Elections as soon as possible to ensure its proper placement on the primary election ballot.

WHEREFORE, this Ordinance shall go into full force and effect immediately upon its passage by Council and approval by the Mayor.

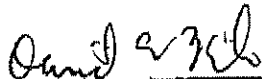
DATE: 11/25/10

  
KAREN L. JUSTICE  
PRESIDENT OF COUNCIL

ATTEST:

APPROVED:

  
KATHRYN M. MILLER  
CLERK OF COUNCIL

  
DAVID E. KILE  
MAYOR

## CHAPTER 193 Earned Income Tax

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- 193.18 Contractor and subcontractor registration.

### CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII, Sec.3
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718

### **193.01 PURPOSE.**

To provide funds for the purposes of general municipal operation, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Bellevue there is hereby levied a tax on salaries, qualifying wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided. (Ord. 60-04. Passed 12-13-04.)

### **193.02 DEFINITIONS.**

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

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio R.C. 5745.03 or to the net profit from a sole proprietorship.

A. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income,

B. Add an amount equal to five percent (5%) of intangible income deducted under division (a)(1)A. of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

C. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

D. 1. Except as provided in subsection (a)(1)D.2. hereof, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

2. Subsection (a)(1)D.1. hereof does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

E. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

F. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

G. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except;

1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and

2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in subsection (a)(1) hereof shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(2) "Assignment" means the assignment made by a resident of Bellevue of claim for refund due from another taxing municipality granting credit to nonresidents thereof.

(3) "Association" means a partnership, limited partnership, limited liability company, any Sub-S Corporation or any other form of unincorporated enterprise, owned by one (1) or more persons.

(4) "Board of Review" means the Board created by and constituted as provided in Section 193.13.

(5) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, including but not limited to the renting or leasing of real estate or personal property, whether by an individual, partnership, association, corporation or any other entity.

(6) "Commissioner" means the individual referred to in this chapter, employed in the Department of Taxation as set forth at Chapter 191 who is appointed by the Treasurer of the City of Bellevue, approved by Council, to administer and enforce the provisions of this chapter. If no appointment is made, then the Treasurer shall act as de facto Commissioner.

(7) "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 or foreign country or dependency.

(8) "Day" means a full day or any fractional part of a day.

(9) "Domicile" means the place where a taxpayer has his true, fixed, and permanent home, and to which, whenever the taxpayer is absent, he has the intention of returning. Factors to be considered when determining domicile are, but are not limited to: registration of vehicles; current driver's license; address on Federal and State income tax returns; address of voter's registration; attendance at schools by taxpayer's family; county of taxpayer's estate if deceased.

(10) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer and whose wages, salary, or commission are subject to withholding of Federal Income Tax, Social Security Tax, and/or Medicare Tax.

(11) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

(12) "Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.

(13) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports, or documents.

(14) "Gross receipts" means the total income of taxpayers from whatever source derived.

(15) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

(16) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

(17) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(18) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

(19) "Limited liability company" means a limited company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(20) "Municipality" means the City of Bellevue.

(21) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, required to be reported on schedule C, schedule E, or schedule F.

(22) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121 (v)(2)(C) of the Internal Revenue Code.

(23) "Nonresident" means an individual domiciled outside the City of Bellevue.

(24) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the City of Bellevue.

(25) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Bellevue.

(26) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.

(27) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.

(28) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of:

A. The owner's income from the pass through entity that is subject to taxation by the municipal corporation, to

B. The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

(29) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(30) "Pension" means income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payor on a Form 1099-R or similar form.

(31) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

(32) "Place of business" means 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 (1) or more of his regular agents or employees regularly in attendance.

(33) "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.

(34) "Qualified plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.

(35) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.

(36) "Relief" means a credit of the amount of such tax rate paid to such other municipality but not in excess of the tax rate assessed by this chapter, per employer.

(37) "Resident" means an individual domiciled in the City of Bellevue.

(38) "Resident incorporated business entity" means an incorporated business entity whose office, place or operations or business situs is within the City of Bellevue.

(39) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Bellevue.

(40) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(41) "Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(42) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(43) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(44) "S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(45) "Taxable income" means qualifying wages, paid by an employer or employers: Means the total compensation paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to the following: severance or termination pay; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by IRS and which may be excludable from wages for federal tax purposes; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB Pay); strike pay; jury duty pay; employer or employee contributions or amounts credited to nonqualified pension plans or deferred compensation plans at the time of deferral and to the extent subject to Medicare Tax; working conditions fringe benefits and unemployment compensation subject to tax by IRS; guardian, executor, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions which become subject to federal tax because the recipient did not roll over the distribution within the time required by IRS; compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

(46) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) "Taxing Municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(48) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

(b) The singular shall include the plural, and the masculine shall include the feminine and the neuter.  
(Ord. 60-04. Passed 12-13-04.)

### **193.03 IMPOSITION OF TAX.**

(a) Subject to the provisions of Section 193.16, an annual tax for the purposes specified in Section 193.01 shall be imposed on and after January 1, 1986, at the rate of one and one-half percent (1.5%) per year upon the following:

(EDITOR'S NOTE: The one and one-half percent (1.5%) income tax is in effect for the calendar years 1986 through and including 1990, at which time the one-half percent (0.5%) increase shall automatically expire and be replaced by the one percent (1.0%) income tax beginning with the calendar year 1991, subject however to any subsequent vote by the electors.)

The one and one-half percent (1.5%) income tax is in effect for the calendar years 1991 through and including 1995, Ord. 37-90 Approved by voters 11-6-90. Ord. 17-95 continues the 1½% income tax until 2000. Ord. 14-00 continues the 1½% income tax through 2005. Ord. 53-04 continues the 1½% income tax through 2010.

(1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of Bellevue.

(2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in Bellevue.

(3) On the portion attributable to Bellevue of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in Bellevue. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to Bellevue and not levied against such unincorporated business entity or pass-through entity.

(4) On the portion attributable to Bellevue on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in Bellevue, whether or not such unincorporated business entity has an office or place of business in Bellevue. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not

attributable to Bellevue and not levied against such unincorporated business entity or pass-through entity.

(5) On the portion attributable to Bellevue of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in Bellevue, whether or not such corporations have an office or place of business in Bellevue.

(b) **Businesses Both In and Outside Bellevue Boundaries.** This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code.

C. Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

D. Adding together the percentages determined in accordance with subsections (b)(1)A., B. and C., hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

1. A factor is applicable even though it may be apportioned entirely in or outside Bellevue.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Commissioner, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in subsection (b) hereof, "sales made in a municipal corporation" mean:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

(2) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Net Operating Loss (NOL).

(1) The portion of net operating loss sustained in any taxable year, beginning with the year 2004, apportioned to Bellevue may be applied against the portion of the net profit apportioned to Bellevue for one (1) successive taxable year immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be apportioned to Bellevue in the same manner as provided herein for apportioning net profits to Bellevue.

(3) The Commissioner shall provide by rules and regulations the manner in which such net operating loss carryforward shall be determined.

(4) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carryforward loss deduction to the surviving or new taxpayer.

(5) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward one year as provided in this section. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(e) (1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

(2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

(f) Rental Property. For the purpose of determining whether or not rental or leased property is subject to the tax, the following test will apply.

(1) Where the gross monthly rental of all rental properties exceeds an average of two hundred fifty dollars (\$250.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such property or properties shall be subject to the tax.

(2) The average monthly rental shall be determined by dividing the number of months (or portion thereof) that the property or properties are actually rented into the total rents received for the period actually rented.

(3) The two hundred fifty dollars (\$250.00) per month figure is attributable to the property itself, regardless of the forms of ownership or number of owners.

If a rental or leased property is determined to be subject to tax based on the test provided in subsection (1), (2), and (3) above, and the property or properties are owned by two or more taxpayers, the profits or losses from such rental or lease activity shall be included with other sources of income of the owners in proportion to their ownership interests.

Residents of Bellevue are subject to taxation upon the net income from rentals (to the extent above specified), regardless of the location of the real property owned.

Non-residents of Bellevue are subject to such taxation only if the real property is situated within Bellevue. Non-residents, in determining whether gross monthly rentals exceed two hundred fifty dollars (\$250.00), shall take into consideration only real estate situated within Bellevue.

(g) If a resident of Bellevue operates a business or businesses (including rentals or leasing) in another taxing municipality in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the jurisdiction of the other taxing municipality to the same extent that profits would have been allocated had there been a profit.

(h) An employee may reduce income subject to Bellevue tax by deducting unreimbursed employee business expenses (2106 or 2106 EZ expenses) which the employee deducted as an itemized deduction before reduction by two percent (2%) of the employee's AGI on his or her federal tax return. Taxpayer must furnish a copy of the form 2106 or 2106 EZ and Schedule "A" of form 1040 as filed with IRS. Further, the 2106 or 2106 EZ expenses must be first allocable to the taxpayer's city of employment.

(i) A "Pass-Through Entity" is required to file its tax return and pay any tax due thereon. The owners or partners of "Pass-Through Entities" are not permitted to file individual tax returns using their distributive share of the profits or losses from the "Pass-Through Entity".  
(Ord. 60-04. Passed 12-13-04.)

### **193.031 EXEMPTIONS; SOURCE OF INCOME NOT TAXED.**

The tax provided for herein shall not be levied on the following:

- (a) Proceeds from welfare benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
- (b) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
- (c) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (d) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (e) Alimony.
- (f) Compensation for damage to property by way of insurance or otherwise.
- (g) Interest and dividends from intangible property.
- (h) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
- (i) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (j) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (k) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of Bellevue, it shall calculate its income apportioned to Bellevue under the method or methods provided above.

(l) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Bellevue income tax.

(m) Parsonage allowances paid to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

(n) Compensation paid under Section 3501.28 or 3510.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars (\$1,000) may be subjected to taxation. The payer of such compensation is not required to withhold Bellevue tax from that compensation.

(o) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through Bellevue, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in Bellevue, or the headquarters of the authority or commission is located within Bellevue.

(p) Bellevue shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in Bellevue on twelve (12) or fewer days in a calendar year unless one the of the following applies:

(1) The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

(2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by Bellevue.

(q) The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745, of the Ohio Revised Code:

(1) The income of an electric company or combined company;

(2) The income of a telephone company.

As used in this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.

(r) Qualified wages, and other compensation earned or received by employees under the age of 18.

(s) The amount of unreimbursed employee business expenses (2106 expenses) which the employee computed as an itemized deduction before reduction by 2% of the employee's AGI on his federal tax return. Taxpayer must furnish copy of the form 2106 and Schedule "A" of form 1040 as filed with IRS. Further, the 2106 expenses must be first allocable to the taxpayer's city of employment.

(t) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(u) Expenses Not Deductible.

(1) No deduction for health insurance premiums paid by self-employed taxpayers as permitted by IRS is permitted for Bellevue.

(2) No deduction for self-employed tax paid by self-employed taxpayers as permitted by IRS is permitted for Bellevue.

(3) No deduction for contributions to IRA or Keough plans made by self-employed taxpayers as permitted by IRS is permitted for Bellevue.  
(Ord. 60-04. Passed 12-13-04.)

#### **193.04 EFFECTIVE PERIOD.**

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of persons, businesses, professions or other activities earned from January 1, 1968, to and including the date of revocation of this chapter.  
(Ord. 60-04. Passed 12-13-04.)

### **193.05 RETURN AND PAYMENT OF TAX; AMENDED RETURNS.**

(a) Each taxpayer, or person 18 years of age or older, except as herein provided, shall whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Bellevue tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Commissioner may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commissions, other compensation, and other taxable income.

(b) The return shall be filed with the Commissioner on a form or forms furnished by or obtainable upon request from such Commissioner; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with Bellevue's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

(c) The return shall set forth:

(1) The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and

(2) The amount of the tax imposed by this Tax Code on such earnings and profits; and

(3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Commissioner may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Chapter.

(d) Extension of time for filing returns.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for filing of a Bellevue Income Tax Return by filing a copy of the taxpayer's federal extension request with the Bellevue Tax Department. Any taxpayer not required to file a federal income tax return may request an extension for filing a Bellevue Income Tax Return in writing. The request for an extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the Bellevue income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

(2) The Commissioner may deny a taxpayer's request for extension if the taxpayer:

A. Fails to timely file the request; or

B. Fails to file a copy of the federal extension request, (if applicable);

or

C. Owes Bellevue any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or

D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

(3) The granting of an extension for filing a Bellevue tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 193.10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(e) Payment with Returns.

(1) The taxpayer making a return shall, at the time of filing thereof, pay to the Commissioner the balance of tax due, if it exceeds two dollars and ninety-nine cents (\$2.99), after deducting:

A. The amount of Bellevue income tax deducted or withheld at the source pursuant to Section 193.06;

B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 193.07;

C. Any credit allowable under the provisions of Section 193.15 for tax paid to another municipality.

(2) Should the return, or the records of the Commissioner indicate an overpayment of the tax to which the City of Bellevue is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Commissioner, shall be refunded or transferred against any subsequent liability. However, no additional taxes or refunds of less than three dollars (\$3.00) shall be collected or refunded.

(f) Amended Returns.

(1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 193.11 and 193.15. Such amended returns shall be on a form obtainable upon request from the Commissioner. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any Federal tax liability affecting the taxpayer's Bellevue tax liability, such taxpayer shall make and file an amended Bellevue return showing income subject to the Bellevue 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.

(g) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

(h) Tax Return Is Considered Received if mailed, on the date postmarked by the United States Postal Service or on the date delivered without mailing to the Bellevue Tax Office.

(i) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Commissioner, or his authorized representative, to file the items required by this paragraph.

(j) The failure of any taxpayer to receive or procure a return, declaration or other required form shall not excuse the taxpayer from filing such forms or from paying the tax due.

(k) Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to taxes due.

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

(m) Joint returns may be filed by married couples but the tax imposed on each spouse's W-2 income will be calculated separately and no offsets of deductions against the other spouse's W-2 income is permitted. Tax returns filed jointly by spouses must be filed under the same status until a change in marital status occurs.

(Ord. 60-04. Passed 12-13-04.)

### **193.051 LANDLORD/TENANT INFORMATION.**

(a) Within thirty (30) days after a new tenant occupies rental property of any kind within the City of Bellevue the owner of such rental property shall file with the Commissioner a report showing the name, address, social security number and telephone number, if available, of each such tenant.

(b) Within thirty (30) days after a tenant vacates rental property located within the City of Bellevue, the owner of such vacated rental property shall file with the Commissioner a report showing the date of vacation from the rental property and identifying each such vacating tenant along with a forwarding address.

(c) As used herein, the term "rental property" shall include houses, apartments, rooms, stores, and any other real property rented, leased or demised to a tenant or lessee.  
(Ord. 60-04. Passed 12-13-04.)

### **193.06 COLLECTION AT SOURCE; WITHHOLDING BY EMPLOYER.**

(a) Withholding by Employer. Each employer within, or doing business within, Bellevue who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 193.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following each calendar quarter, or at more frequent intervals, make a return and pay to the Commissioner the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Commissioner and shall be subject to the Rules and Regulations prescribed by the Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(b) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(c) (1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(d) Compensation deferred before the effective date of this amendment is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(e) The Commissioner may revoke the approval of quarterly filing and payments whenever the Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of Bellevue to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with Commissioner's requirements.

(f) Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to Bellevue, as a trustee for the benefit of Bellevue, and any such tax collected by such employer from his employees shall, until the same is paid to Bellevue, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(g) Any person who is required to withhold tax from qualifying wages shall pay all such tax to Bellevue in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to Bellevue in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to Bellevue as well as any related interest and penalties, and are also liable under the provisions of Section 193.12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(h) Withholding Return: List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Bellevue tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Bellevue tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to Bellevue concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

(i) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to Bellevue when the services were performed in Bellevue. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year. Failure to provide the foregoing information may result in any deduction for payment by the taxpayer taken on the taxpayer's return to be disallowed.

(j) Every employer shall retain all records necessary to compute withholding taxes due Bellevue for a period of five years from the date the Reconciliation Form, W-2 Forms, and 1099 forms are filed.

(k) The return is considered received when all returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer to the Bellevue Tax Office.

(l) The failure of any employer to receive or procure a return, or other required form shall not excuse the employer from preparing any information return, withholding tax returns or from filing such forms or from paying the tax due.

(m) Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.

(n) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

(Ord. 60-04. Passed 12-13-04.)

### **193.07 ESTIMATED TAX PAYMENTS.**

Every person who anticipates any taxable income which is not subject to Section 193.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 193.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, provided the annual estimated tax due is in excess of one hundred dollars (\$100.00) annually.

(a) Such declaration shall be filed on or before April 15 of each year during the life of this Chapter, or before the fifteenth (15th) day of the fourth (4th) month from the date the taxpayer becomes subject to tax for the first time.

(1) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month after the beginning of each fiscal year or period.

(2) Such declaration shall be filed upon a form furnished by, or obtainable from the Commissioner. Credit may be taken for Bellevue income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax paid or payable to other taxing municipalities in accordance with the provisions of Section 193.15.

(3) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date provided for herein.

(4) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Commissioner at least twenty-two and one-half percent (22 ½%) of the estimated annual tax after deducting:

A. Any portion of such tax to be deducted at the source pursuant to Section 193.06

B. Any credit allowable under the provisions of Section 193.15; and

C. Any overpayment of previous year's tax liability which the taxpayer has not elected to have refunded.

(5) At least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th), and thirteenth (13th) months after the beginning of the taxpayer's taxable year, provided that where an amended estimate has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(b) Declarations for the 2nd, 3rd, and 4th quarters shall be due on July 31st and October 31st of the current year and on January 31st of the subsequent year. The amounts due on those dates are not to exceed forty-five percent (45%), sixty-seven and one-half percent (67 ½%), and ninety percent (90%) respectively of the tax estimated to be due.

(c) Taxpayers reporting on a fiscal year basis shall file a declaration within three months and fifteen days after the beginning of each fiscal year and at the end of the 7th, 10th, and 13th months thereafter.

(d) Effective January 1, 2003, no penalty or interest will be assessed for the late payment or nonpayment of estimated taxes, if the taxpayer was not domiciled in Bellevue on the 1st day of January of the current calendar year or if the taxpayer has paid estimated payments equaling one hundred percent (100%) of the taxpayer's tax liability for the immediately preceding tax year, provided that the immediately preceding tax year reflected a 12 month tax period and the taxpayer filed a return for the immediately preceding year.

(e) On or before the fifteenth (15th) day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due Bellevue shall be paid therewith in accordance with the provisions of Section 193.05.  
(Ord. 60-04. Passed 12-13-04.)

#### **193.08 DUTIES OF THE COMMISSIONER.**

(a) (1) It shall be the duty of the Commissioner to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received.

(2) It shall be the duty of the Commissioner to enforce payment of all income taxes owing Bellevue, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Commissioner is hereby charged with the enforcement of the provisions of this Chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Chapter, including provisions for the re-examination and correction of returns.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Commissioner may determine the amount of tax appearing to be due Bellevue from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of a majority of the Board of Review/Adjudication, the Commissioner shall have the power to compromise any liability imposed by this Tax Code.

(e) Upon the demonstration and documentation of good cause, the Commissioner shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter and the Rules and Regulations.

(Ord. 60-04. Passed 12-13-04.)

### **193.09 INVESTIGATIVE POWERS OF THE COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) The Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Commissioner believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Commissioner, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

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

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Commissioner authorized hereby, shall be deemed a violation of this Chapter punishable as provided in Section 193.12.

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes required to be withheld are paid.

(e) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this Chapter. The Commissioner of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State Tax Commissioner.

(f) Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of one-thousand dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both.

(g) In addition to the above penalty, any employee of Bellevue who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.  
(Ord. 60-04. Passed 12-13-04.)

### **193.10 INTEREST AND PENALTIES.**

(a) All taxes imposed and all moneys withheld or required to be withheld by employers, under the provisions of this chapter and/or remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld: one-half percent (0.5%) per month or fraction thereof.

(2) For failure to remit taxes withheld or required to be withheld from employees: five percent (5%) per month or fraction thereof.

(3) A twenty-five dollar (\$25.00) late filing fee shall be assessed against the taxpayer for failure to file a timely annual City income tax return, or for failure to file a timely approved extension thereof, even if there is no balance due.

(4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, a penalty not to exceed ten dollars (\$10.00) may be assessed at the Commissioner's discretion.

(5) No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

(6) In the event a resident claims he mailed his return, we did not receive it and his returns have been filed timely in the past, the late filing fee will be waived one time only.

(c) Upon recommendation of the Commissioner, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Commissioner to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.  
(Ord. 60-04. Passed 12-13-04.)

### **193.11 COLLECTION OF UNPAID TAXES BY CIVIL LITIGATION AND REFUNDS OF OVERPAYMENTS.**

(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 (3) years after the tax was due or the return was filed, whichever is later in accordance with Ohio R.C. 718.12 A.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time limitation specified in Ohio R.C. 718.12 C and 718.121. Amounts less than three dollars (\$3.00) shall not be refundable.  
(Ord. 60-04. Passed 12-13-04.)

### **193.12 VIOLATIONS; CRIMINAL PROSECUTIONS.**

Any person or taxpayer who or which:

- (a) Fails, neglects or refuses to make any return, information return or declaration required by this chapter; or
- (b) Makes any false or fraudulent return; or knowingly makes any incomplete return; or
- (c) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
- (d) Fails, neglects or refuses to withhold the tax from his employees or to remit such withholding to the Commissioner; or

(e) Refuses to permit the Commissioner 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

(f) Fails to appear before the Commissioner and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Commissioner; or

(g) Refuses to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer; or

(h) Fails to comply with the provisions of this chapter or any order or subpoena of the Commissioner authorized hereby; or

(i) Gives to an employer false information as to his true name, correct Social Security number, or residence address, or fails to promptly notify an employer of any change in his residence address and the date thereof; or

(j) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Bellevue tax withheld or knowingly gives false or misleading information to the Commissioner; or

(k) Attempts to do anything whatever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this chapter; or

(l) Fails, neglects or refuses to complete and return to the Commissioner any tax form whose purpose is to determine if a resident must file a Bellevue tax return; Shall be guilty of a misdemeanor of the first degree and subject to the penalties set forth at Section 501.99 of the Bellevue Codified Ordinances.

(m) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) 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 (6) years after the commission of the offense in accordance with Ohio R.C. 718.12B.

(n) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any return, information return or declaration, from filing such form or from paying the tax.

(Ord. 60-04. Passed 12-13-04.)

### **193.13 BOARD OF REVIEW.**

(a) A Board of Review, consisting of a Chairman and two (2) other individuals each to be appointed by the Mayor, approved by Council, is hereby created. The first three (3) members of the Board of Review shall be appointed in the following manner:

- One (1) to serve for a term of two (2) years,
- One (1) to serve for a term of four (4) years,
- One (1) to serve for a term of six (6) years.

At the expiration of each term of office set forth above, the succeeding member shall be appointed for a term of six (6) years. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 193.09 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 on appeal.

(b) All rules and regulations and amendments or changes thereto which are adopted by the Commissioner under the authority conferred by this Chapter, 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. The Board shall hear and pass on appeals from any ruling or decision of the Commissioner, and, at the request of the taxpayer or Commissioner, is empowered to substitute alternate methods of apportionment.

(c) Whenever the Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of Bellevue, the Commissioner shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision by the Commissioner and who has filed with Bellevue the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Commissioner has issued the decision.

(e) The imposition of penalty and interest as prescribed in the codified ordinance of Bellevue is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.

(g) The Board may affirm, reverse, or modify the Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Commissioner may

appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(h) Each Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.  
(Ord. 60-04. Passed 12-13-04.)

#### **193.14 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this chapter shall be applied for the following purposes:

(a) Such part as is necessary to defray all costs of operation and administration of the Department of Taxation including refunds of any taxes overpaid;

(b) The balance shall be allocated in accordance with ordinances adopted and approved by Council.  
(Ord. 60-04. Passed 12-13-04.)

#### **193.15 RELIEF: CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.**

(a) Where a resident of Bellevue is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the other income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in Bellevue who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside Bellevue, if it appears that he has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit against the tax imposed by this Chapter of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) Credits provided for shall not be allowed unless the same are claimed in a return or form acceptable to, and filed with the Commissioner. In the event a taxpayer fails, neglects or refuses to file such return or form, he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this Chapter, together with such interest and penalties, both civil and criminal, as are prescribed in this Chapter.

(d) No credit shall be given for any tax paid to a school district or a county. (Ord. 60-04. Passed 12-13-04.)

### **193.16 SEPARABILITY.**

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. If any wording in this chapter conflicts with wording in the Regulations, the wording in this chapter shall prevail.

(Ord. 60-04. Passed 12-13-04.)

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

(a) The provisions of this chapter shall continue effective insofar as the levy of taxes is concerned until revoked, and insofar as the collection of taxes levied hereunder 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 the 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 have been fully terminated, subject to the limitations contained in Sections 193.11 and 193.12.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 193.05 and 193.06 as though the same were continuing.

(Ord. 60-04. Passed 12-13-04.)

## **193.18 CONTRACTOR AND SUBCONTRACTOR REGISTRATION.**

(a) Registration Required. No building permits shall be issued by the City, and no real estate, building or fixture construction or repair work shall be undertaken within the City, including but not limited to plumbing, sewer, heating, electrical, waterproofing, siding, roof work, gutter work, window work, insulation work, painting, concrete work, blacktop work, landscaping, lawn maintenance, tree work, and any other work relating to real estate, building or fixture construction or repair, in any case, in which the work is to be done for hire, until the contractor and, if applicable, any subcontractor, has first registered his name, address, social security/tax identification number, and principal place of business ( and in the case of a corporate entity contractor, has registered the name and address of the statutory agent of the corporation) with the Bellevue City Income Tax Department, and has obtained a Certificate of Registration from said Department. In cases where subcontractors are involved, the contractor (as well as any subcontractors) is also responsible for registering the same information for subcontractors as is herein required for contractors and subcontractors. In the event that the identify of any subcontractor is unknown at the time of the initial registration of a contractor, such registration shall be permitted, upon compliance with all other provisions herein. Upon determining any subcontractors not known at the time of the initial registration, the contractor, as well as any subcontractors, shall be responsible for providing forthwith (within fifteen (15) days) the information, as required above, to the Tax Department. Failure to do so shall result in revocation of the registration already made and Certificate already issued. Revocation shall also occur in the event of failure to file tax returns, including withholding returns, failure to be current in the obligation to file tax returns, including withholding returns, failure to withhold and/or pay any taxes, interest or penalties owed to the City, failure to be current in the obligation to pay any taxes, interest or penalties owed to the City, or for other good cause articulated by the Bellevue City Income Tax Department. Otherwise, said registration shall be valid indefinitely, but shall be amended within fifteen (15) days of the change in any relevant information as set forth herein to be declared, or the same shall be revoked, subject to re-registration in compliance with this section.

(b) Fees for Registration. Any fees for the above shall be set by the Tax Department and shall bear a reasonable relation to the work and/or forms expense involved in such registration and the issuing of said Certificate.

(c) Transient and Temporary Work. In cases of transient and/or temporary work being done in the City, persons, firms, partnerships or corporations performing the same shall be subject to registration, but the Tax Department is authorized to charge a reasonable blanket amount to said contractor and/or subcontractor to cover registration fees and any taxes likely to be incurred for said work being done in the City. However, this shall not include the responsibility and liability for employees' withholding taxes, which still shall be required under

the Chapter, unless the same has specifically been included. If said taxpayer does not wish to pay said blanket amount suggested by the Tax Department, said taxpayer shall be charged a registration fee as set forth herein, and be responsible for filing all returns and paying all taxes, penalties and interest under this Chapter.

(d) Violations, Penalty.

(1) Whoever fails, neglects or refuses to make the registration set forth in this Ordinance, to obtain the within Certificate, and to keep the same current, but nonetheless engages in the construction and/or repair activities covered by this section, and is duly convicted thereof, shall be guilty of an offense and shall be subject to fine or imprisonment or both pursuant to Section 193.12. Each day the violation is committed or permitted to continue shall constitute a separate offense.

(2) The Tax Department may provide written notice ordering any person, firm, partnership or corporation in noncompliance with any provision of this section, to cease and desist construction and/or repair until that person, firm, partnership or corporation complies with the provisions of this section. Until compliance is attained, any injunction and/or restraining order may be granted by a court of competent jurisdiction, upon proper application of the Tax Department, to prevent further violations of this Ordinance, under penalty of law as set forth herein.

(Ord. 60-04. Passed 12-13-04.)