

Sponsor: Committee of the Whole
This is a Revision to the Codified Ordinances

CITY OF AURORA
OHIO

ORDINANCE 2014-139

INTRODUCED BY: _____

SECONDED BY: _____

AN ORDINANCE AMENDING SECTION 187.02 "DEFINITIONS" OF AURORA'S CODIFIED ORDINANCES TO INCLUDE THE DEFINITION OF PENSION AND DECLARING AN EMERGENCY TO MAKE THIS DEFINITION APPLICABLE FOR THE 2014 INCOME TAX FILING YEAR

WHEREAS, the Regional Income Tax Agency has recommended that the City of Aurora amend its codified ordinances to include the definition of Pension; and

WHEREAS, this action was recommended by the Committee of the Whole at its October 13, 2014 meeting;

NOW, THEREFORE, BE IT ORDAINED by the Council for the City of Aurora, County of Portage, State of Ohio, that:

Section 1. City Council hereby amends Section 182.02 "Definitions" of Aurora's Codified Ordinances to include item (x) as follows:

187.02 Definitions

(x) "Pension" For the purposes of this chapter, a pension is any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its Committees that resulted in such formal action were in meetings open to the public in compliance with the legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of this municipality and for the further reason to make this definition applicable for the 2014 income tax filing year. Wherefore, provided it receives an affirmative vote of six or more of the members elected to this Council, this Ordinance shall take effect and be in force immediately upon

CHAPTER 187
Earned Income Tax

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- 187.31 Residents subject to income tax in other municipalities.
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- 187.40 Authority to complete production of records.
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- 187.44 Authority to contract for central collection services.
- 187.45 Board of Review established.
- 187.46 Duty to approve regulations and hear appeals.
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CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII, §3
- Limitation on rate of taxation - see CHTR. §6.04
- Payroll deductions - see Ohio R. C. 9.42
- Municipal income taxes - see Ohio R. C. Ch. 718

187.01 PURPOSE.

To provide funds for the purposes of general Municipal functions and capital improvements of the City, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.

(Ord. 1981-47. Passed 4-27-81.)

187.02 DEFINITIONS.

For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in this section. The singular shall include the plural and the masculine shall include the feminine and the neuter.

(a) "Administrator" means the Director of Finance, who shall administer and enforce the provisions of this chapter.

(b) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

(c) "Board of Review" means the Board created by and constituted as provided in Section 187.46.

(d) "Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding, however, all nonprofit corporations which are exempt from the payment of Federal income tax.

(e) "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.

(f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.

(g) "Employer" means an individual, partnership, association, corporation, government 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 basis of compensation.

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

(i) "Gross receipts" means the total income from any source whatever.

(j) "Net profits" for taxable years prior to 2004 means a net gain from the operation of a business, profession, enterprise or other activity 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 without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income and, in the case of an association, without deduction of salaries paid to partners and other owners. (For taxable years 2004 and later, see "Adjusted federal taxable income")

(k) "Nonresident" means an individual domiciled outside the City.

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

(m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

(n) "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 or more of his regular employees regularly in attendance.

(o) "Resident" means an individual domiciled in the City.

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

(q) "Royalty interest in the production of an oil and/or gas well" means a fee holder's interest in the production from an oil and/or gas well, usually one-eighth of the gross production, together with associated incidental compensation received by the fee holder, usually set forth in a lease, such as compensation for the use of land for ingress and egress, compensation for erection of storage tanks and compensation for incidental damages to the fee holder's property.

(r) "Taxable income" means wages, salary and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.

(s) "Taxable year" means the calendar year, or fiscal year, upon the basis of which the net profits are to be computed and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

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

(u) "Adjusted federal taxable income" - 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 Revised Code (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

(v) "Qualifying wage" - These are wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income, including non-qualified deferred compensation and stock options, from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not

be taxed by the City. This definition is effective January 1, 2004, for taxable years 2004 and later.

(w) "Generic Form" - An electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or requests for refunds, which contain all the information required on City regular tax return, estimated payment forms, and request for refund forms, and are in a similar format that will allow processing of the generic forms without altering the City procedures for processing forms.
(Ord. 2005-049. Passed 3-28-05.)

187.03 IMPOSITION OF TAX.

An annual tax for the purposes specified herein shall be imposed on and after April 1, 2003, at the rate of two percent per year upon the following:

(a) On all salaries, wages, commissions and other compensation earned on and after April 1, 2003, by residents of the City.

(b) (1) On all salaries, wages, commissions and other compensation earned on and after April 1, 2003, by nonresidents of the City for work done or services performed or rendered within the City.

(2) A non-resident individual who works in the City 12 or fewer days per year shall be considered an occasional entrant, and shall not be subject to the City municipal income tax for those 12 days. For purposes of the 12 day calculation, any portion of a day worked in the City shall be counted as one day worked in the City.

(3) Beginning with the 13th day, the employer of said individual shall begin withholding the City income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the City in accordance with the requirements of this chapter/ordinance. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the City by the individual for the first 12 days.

(4) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to City.

(5) The 12 day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

(c) (1) On the portion attributable to the City on the net profits earned on and after April 1, 2003, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(2) On the portion of the distributive share of the net profits earned on and after April 1, 2003, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City.

(d) (1) On the portion attributable to the City of the net profits earned on or after April 1, 2003, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

(2) On the portion of the distributive share of the net profits earned on and after April 1, 2003, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity by the City.

(e) On the portion attributable to the City of the net profits earned on and after April 1, 2003, of all corporations, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

Such tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation and with respect to the net profits of businesses, professions or other activities earned on and after April 1, 2003. (Ord. 2005-049. Passed 3-28-05.)

187.04 DETERMINATION OF ALLOCATION OF TAX.

In the taxation of income which is subject to the City income tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for the purposes of Municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

(a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all 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 the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession wherever their services are performed.

(c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may under uniform regulations, be substituted so as to produce such result.

(d) The net profits allocable to the City from business, professional or other activities conducted in the City by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the City.

(e) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the City are apportioned with reasonable accuracy.

(f) In determining the income allocable to the City from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the City.
(Ord. 2005-049. Passed 3-28-05.)

187.05 SALES MADE IN THE CITY.

As used in this chapter, "sales made in the City" means:

(a) All sales of tangible personal property delivered within the City, regardless of where title passes, if shipped or delivered from a stock of goods within the City.

(b) All sales of tangible personal property delivered within the City, regardless of where title passes, even though transported from a point outside the City, if the taxpayer is regularly engaged through his own employees in the solicitation or promotion of sales within the City and the sales results from such solicitation or promotion.

(c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of the City, regardless of where title passes, if the taxpayer is not, through his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. (Ord. 1981-47. Passed 4-27-81.)

187.06 BUSINESS ALLOCATION PERCENTAGE.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 187.04 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 187.04.

A factor is applicable even though it may be allocable entirely in or outside the City.

(Ord. 1981-47. Passed 4-27-81.)

187.07 RENTAL INCOME.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subsections (c), (d) and (e) of Section 187.03, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer and the net income of such rental property shall be subject to tax, provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month, and provided, further, that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month, and provided, further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
(Ord. 1981-47. Passed 4-27-81.)

187.0701 RESIDENTIAL LANDLORDS.

(a) It shall be mandatory for every owner of rental real property within the City of Aurora to submit personally, or through a management agent, a list to the Tax Administrator of names and addresses of all persons, firms, corporations or other entities occupying, leasing renting or otherwise using the premises within this municipality in such a manner as to produce economic benefit to said owner, whether or not such benefit is called "rent" and whether or not such benefit results in a profit or loss. The required list shall be prepared as of June 30th of each year and submitted on or before July 31st of each year and prepared by December 31st of each year and submitted on or before January 31st of the following year and at such other times as may be prescribed by the Tax Administrator.

(b) Any person, firm or corporation who fails to comply with this section shall be guilty of a minor misdemeanor.
(Ord. 2000-165. Passed 8-28-00.)

187.071 ROYALTY INCOME FROM OIL AND/OR GAS WELLS.

Income received by a taxpayer from a royalty interest in the production of an oil and/or gas well, whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity under Section 187.03 (c), (d) and (e) only if and to the extent such royalty interest constitutes a business activity of the taxpayer.

Where the gross income received by a taxpayer from royalty interest in the production of an oil and/or gas well in a taxable year exceeds three thousand dollars (\$3,000) it shall be prima-facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

(Ord. 1981-47. Passed 4-27-81.)

187.08 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year may be applied against the portion of the profit of succeeding tax years allocable to the City until exhausted, but in no event for more than five taxable years 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.

(b) The portion of net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(Ord. 1981-47. Passed 4-27-81.)

187.09 SOURCES OF INCOME NOT TAXED.

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

(a) 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.

(b) 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.

(c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.

(e) Alimony received.

- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) 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 such income from the operation of a business.
- (j) Salaries, wages, commissions and other 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 net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any Act of the Ohio General Assembly limiting the power of the City to impose net income taxes.
- (l) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.
(Ord. 2005-049. Passed 3-28-05.)

187.10 FILING RETURNS.

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three and one half months from the end of such fiscal year or period.
(Ord. 2005-049. Passed 3-28-05.)

187.11 FORM AND CONTENT OF RETURN.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, setting forth:

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from a business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;

(b) The amount of the tax imposed by this chapter on such earnings and profits; and

(c) Such other pertinent statements, information returns or other information as the Administrator may require.
(Ord. 1981-47. Passed 4-27-81.)

187.12 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The City Administrator may deny the extension if the taxpayer's income tax account with the City is delinquent in any way. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. 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.
(Ord. 2005-049. Passed 3-28-05.)

187.13 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(b) 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 the case of any person operating a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds that 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 such division, branch, factory, office, laboratory or activity or by some other method, he shall make allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

(c) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with City. However, once the affiliated group has elected to file a consolidated return or a separate return with City, the affiliated group may not change their method of filing in any subsequent tax year without written approval from City.
(Ord. 2005-049. Passed 3-28-05.)

187.14 AMENDED RETURNS.

(a) 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, limitations, or both, contained in Sections 187.29(b) and (c), 187.30, 187.31, 187.32 and 187.33. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City 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. (Ord. 1981-47. Passed 4-27-81.)

187.15 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon, provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 187.16, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 187.17, or where an income tax has been paid to another municipality, credit for the amount so deducted or paid or credit to the extent provided for in Section 187.31 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.

(b) 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 his 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. 1981-47. Passed 4-27-81.)

187.16 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of two percent per year of the gross salaries, wages, commissions or other compensation due by such employer to such employee, and shall, on or before the last day of each month, to make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator. 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.

(c) Such employer in collecting such tax shall be deemed to hold the same until payment is made by such employer to the City as a 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.

(d) No person shall be required to withhold the tax on wages or other compensation paid to domestic servants employed by that person exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter. (Ord. 2002-231. Passed 10-14-02.)

187.17 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

(a) Any person whose income tax is not fully withheld in the City or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in Section 187.03 shall file a declaration setting forth taxable estimated income, including distributive shares of net profits of unincorporated business entities estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon less:

- (1) Tax withheld within the City of Aurora; and
- (2) The tax credit allowed in Section 187.31.

(b) If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than fifty dollars (\$50.00), no declaration or payment of estimated tax is required.

(c) No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve month period, or if ninety percent (90%) of the actual liability has been received. (Ord. 2005-049. Passed 3-28-05.)

187.18 FILING OF DECLARATION.

(a) The declaration required by Section 187.17 shall be filed on or before April 15 of each year during the effective period set forth in Section 187.03 or within three and one half months of the date the taxpayer becomes subject to the tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within three and one half months after the beginning of each fiscal year or period.

(c) Effective January 1, 2003, the Declaration of Estimated Tax to be paid City by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of the Declaration amount and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of the following year.

(d) Effective January 1, 2003, such Declaration of Estimated Tax to be paid to City by corporations and associations shall be accompanied by a payment of at least one-fourth (1/4) of the Declaration amount and at least a similar amount shall be paid on or before June 15th, September 15th, and December 15th. In the case of a fiscal year taxpayer, the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively. (Ord. 2005-049. Passed 3-28-05.)

187.19 FORM OF DECLARATION.

(a) The declaration required by Section 187.17 shall be filed upon a form furnished by or obtainable from the Administrator. As provided in Section 187.17, credit shall be taken for the City tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 187.31.

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

(Ord. 1981-47. Passed 4-27-81.)

187.20 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown thereon shall be paid in equal installments on or before the remaining payment dates.

(Ord. 1981-47. Passed 4-27-81.)

187.21 ANNUAL RETURN.

On or before the last 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 the City shall be paid therewith in accordance with the provisions of Section 187.15. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(Ord. 1981-47. Passed 4-27-81.)

187.22 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of eight percent per year.

(Ord. 1981-47. Passed 4-27-81.)

187.23 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 187.22, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent per annum, but not less than twenty-five dollars (\$25.00);

(b) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof, but accumulated penalty shall not exceed fifty percent upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00). (Ord. 1981-47. Passed 4-27-81.)

187.24 EXCEPTIONS.

(a) A penalty shall not be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

(b) No penalty or interest shall be assessed against a taxpayer whose current year earned income tax obligation is (\$50.00) or less, provided that the current year's municipal income tax return was filed on a timely basis. (Ord. 2007-036. Passed 3-26-07.)

187.25 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 1981-47. Passed 4-27-81.)

187.26 VIOLATIONS.

No person shall:

(a) Fail, neglect or refuse to make any return or declaration required by this chapter; or

(b) Make any incomplete, false or fraudulent return; or

(c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or

(d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

(e) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profit of a taxpayer; or

(f) Fail to appear before the Administrator 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 Administrator; or

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

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

(i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and the date thereof; or

(j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld or knowingly give the Administrator false information; or

(k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
(Ord . 1981-47. Passed 4-27-81.)

187.27 LIMITATION ON PROSECUTION.

All prosecutions under this section must be commenced within three years from the time of the offense complained of except in the case of fraud, failure to file a return or the omission of twenty-five percent or more of income required to be reported, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed.

(Ord. 1981-47. Passed 4-27-81.)

187.28 FAILURE TO PROCURE FORMS NO EXCUSE.

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

(Ord. 1981-47. Passed 4-27-81.)

187.29 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as Other Debts. 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. Except in the case of

fraud, or omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Refunds of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date when such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.

(c) Amounts of Less than One Dollar. Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 1981-47. Passed 4-27-81.)

187.30 TAXPAYER RELIEF AND RECIPROCITY PROVISIONS; NONRESIDENT TAXPAYERS.

(EDITOR'S NOTE: Section 187.30 was repealed by Ordinance 1971-751, passed November 29, 1971.)

187.31 RESIDENTS SUBJECT TO INCOME TAX IN OTHER MUNICIPALITIES.

(a) When the taxable income of a resident of the City is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to one hundred percent (100%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City by the taxable income earned in or attributable to the municipality of employment or business activity; provided, such credit shall not be applied to a rate in excess of two percent (2%) of the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

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

(Ord. 2002-230. Passed 10-14-02.)

187.32 CLAIM FOR CREDIT.

Any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed; provided that, in the case such claim for reciprocity refund has been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the City on or before January 31 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.
(Ord. 2002-230. Passed 10-14-02.)

187.33 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund.
(Ord. 2002-231. Passed 10-14-02.)

187.34 DUTY OF ADMINISTRATOR TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator 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.
(Ord. 1981-47. Passed 4-27-81.)

187.35 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to 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 make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof.
(Ord. 1981-47. Passed 4-27-81.)

187.36 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby authorized, subject to the approval of the Board of Review, to adopt, promulgate and 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.

(Ord. 1981-47. Passed 4-27-81.)

187.37 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is hereby authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator 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 this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 187.27 and 187.29(b) shall apply.

(Ord. 1981-47. Passed 4-27-81.)

187.38 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

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 Administrator shall determine the amount of tax appearing to be due the City from the taxpayer and shall send such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(Ord. 1981-47. Passed 4-27-81.)

187.39 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator, 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, or whom the Administrator 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 due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the Administrator or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(Ord . 1981-47. Passed 4-27-81.)

187.40 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such 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 him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
(Ord . 1981-47. Passed 4-27-81.)

187.41 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to an 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 chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 187.99.
(Ord. 1981-47. Passed 4-27-81.)

187.42 CONFIDENTIAL NATURE OF INFORMATION.

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. No person shall divulge such information.
(Ord. 1981-47. Passed 4-27-81.)

187.43 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed or the withholding taxes are paid.
(Ord. 1981-47. Passed 4-27-81.)

187.44 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION SERVICES.

The Board of Trustees of the Regional Income Tax Agency, organized by the Regional Council of Governments for the purpose of collecting municipal taxes, is hereby authorized to administer and enforce the provisions of this chapter as the agent of the City, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of such agency through the

Administrator of such agency. However, the Administrator of such agency shall have no authority to abate interest provided for in Section 187.23.
(Ord. 1995-195. Passed 11-20-95.)

187.45 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Mayor or a person designated by him, the Director of Law or an Assistant Director of Law designated by him, and a member of Council to be elected by that body, is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. 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 187.42 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.
(Ord. 1981-47. Passed 4-27-81.)

187.46 DUTY TO APPROVE REGULATIONS AND HEAR APPEALS.

All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter shall be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or Administrator, is authorized to substitute alternate methods of allocation.
(Ord. 1981-47. Passed 4-27-81.)

187.47 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator 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 Administrator provided the taxpayer making the appeal has filed with City the required return or other documents concerning the obligations at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.
(Ord. 2005-049. Passed 3-28-05.)

187.48 SEVERABILITY.

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. 1981-47. Passed 4-27-81.)

187.49 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and 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 until 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 herein.

(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 this chapter as though the same were continuing. (Ord. 1981-47. Passed 4-27-81.)

187.50 MANAGERS' OBLIGATION.

The officer or employee having control or supervision of or charged with the responsibility of filing any return or declaration required by this chapter and making payment, or any officer of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge a responsible officer's or employee's liability for a failure of the corporation to file returns or declarations or pay tax or employer withholding due. (Ord. 2003-027. Passed 2-24-03.)

187.99 PENALTY.

(a) Whoever violates any provision of this chapter for which no penalty is otherwise provided shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates Section 187.42 shall be fined not more than one thousand dollars (\$1, 000) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provisions of Section 187.42 relative to the disclosures of confidential information, shall be guilty of an offense punishable by immediate dismissal, in accordance with the provisions of the Charter.
(Ord. 1981-47. Passed 4-27-81.)