

TITLE NINE - Taxation

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CHAPTER 173 Income Tax

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CROSS REFERENCES

Limitation on rate - see CHTR. Art. XIII, §13.07, 13.07.01
Power to levy income tax - see Ohio Const., Art. XII, §8
Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
Department of Taxation; Tax Administrator - see ADM. Ch. 131

173.01 PURPOSE OF TAX.

To provide funds for the purposes of general municipal functions of the City there shall be, and is hereby levied a tax on all salaries, qualifying wages, commissions and other compensations and on net profits as hereinafter provided. (Ord. 2004-218. Passed 12-21-04.)

173.02 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings ascribed to them in this section, except as and to the extent the context thereof clearly indicates or requires a different meaning. The singular shall include the plural and the masculine shall include the feminine and the neuter.

- (a) "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 were a "C" corporation. This definition does not apply to any taxpayer required to file a return under Section 5745.03 of the Ohio Revised Code or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.
- (b) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise or collection of persons or entities owned, operated or controlled by one (1) or more persons.

- (c) "Board of Review" means the Board created by and constituted as provided in Section 173.48.
- (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, limited partnership, association, corporation, joint venture or any other entity or arrangement, 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. "Corporation" shall not include Subchapter S corporations as defined in the federal tax code, 26 U.S.C. 1361.
- (f) "Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one domicile.
- (g) "Employee" means an individual who works for wages, salary, commissions, or other type of compensation or other income in the service and under the control of an employer.
- (h) "Employer" means an individual, partnership, limited partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one (1) or more persons on a salary, wage, commission or other compensation or other income basis.
- (i) "Federal Short-term Rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining period of maturity of three (3) years or less, as determined under section 1274 of the Internal Revenue Code of 1966, 100 Stat. 2085, 26 U.S.C. 1274, for July of the current year.
- (j) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (k) "Generic form" means 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 the City's 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's procedures for processing forms.
- (l) "Gross receipts" means the total income from any source whatever (such as, but not limited to sales, work done, or services rendered) before any deductions, exceptions or credits - are claimed.
- (m) "Income" means all monies derived from any source whatsoever, including but not limited to:
 - A. All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the City of Bedford Heights.
 - B. All salaries, wages, commissions, other compensation and other income from whatever source received by nonresidents for work done or services performed or rendered or activities conducted in the City of Bedford Heights.
 - C. The portion attributable to the City of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the City of Bedford Heights.

- (n) "Net profits" means (for taxable years prior to 2004) a net gain from the operation of a business, profession or other enterprise or 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 or 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, and without deduction for dividends paid or disbursed to shareholders of incorporated business entities, and without deduction for charitable contributions, and without deductions for expenses attributable to non-taxable income, and otherwise adjusted to the requirements of this Chapter. "Net profits" shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property or real property used in business, in excess of book value. (For taxable years 2004 and later, see "Adjusted federal taxable income.")
- (o) "Nonresident" means an individual domiciled outside the City of Bedford Heights.
- (p) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Bedford Heights.
- (q) "Other entity" means any person, unincorporated body, venture or combination of individuals or entities not previously named or defined and includes, but is not limited to, fiduciaries, located within the City of Bedford Heights.
- (r) "Person" means every natural person, partnership, LLC, limited 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 and any individual properly classified as a "responsible party" as has been interpreted by the Internal Revenue Service.
- (s) "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.
- (t) "Qualifying wages" means wages as defined in Section 1321(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 from - which municipal tax shall be deducted by the employer, and any wages not considered as part of "Qualifying wage" shall not be taxed by the Municipality. This definition is effective January 1, 2004, for taxable years 2004 and later.
- (u) "Resident" means an individual domiciled in the City of Bedford Heights.
- (v) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Bedford Heights.
- (w) "S Corporation" means a corporation wherein the shareholders have made an election under Subchapter S of the Internal Revenue Code that income be taxed to the shareholders as if the corporation were a partnership.

- (x) "Taxable income" means qualifying wages, salaries and other compensation paid by an employer or employers before any deduction of any kind 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. "Other compensation" includes, but is not limited to, bonuses; commissions; incentive payments; directors' and other fees; property in lieu of cash; tips; dismissal or severance pay; supplemental income benefits for early retirement regardless of their label; contest prizes and awards; tax shelter plans (including contributions to retirement plans, annuities or Independent Retirement Accounts (IRAs) and all other deferred compensation plans); vacation and sick pay regardless of label (such as sick leave including third-party sick pay, disability, vacation pay, etc.); wage continuation plans; supplemental employment benefits (subpay); depreciation recapture; gifts and gratuities in connection with employment; fellowships, grants and stipends (including those representing payment for teaching, research or other services); group term life insurance protection over fifty thousand dollars (\$50,000) (taxed on the cost of such insurance in excess of fifty thousand dollars (\$50,000)); benefits resulting from an employer's assumption of a tax; stock options given as compensation; income from gambling, gaming, wagering, lotteries (including the Ohio State Lottery) and schemes of chance; and all other compensation earned, received or accrued and not excluded in Section 173.10 herein.
- (y) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (z) "Tax Administrator" or "Administrator" means the Administrator of the Department of Taxation of the City of Bedford Heights or the person executing the duties of such Administrator.
- (aa) "Taxpayer" means a person, whether an individual, partnership, limited partnership, association, corporation or other entity, required hereunder to file a return or pay a tax.
- (bb) "Qualifying wages" means wages as defined in Section 1321 (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 as part of "Qualifying wage" shall not be taxed by the Municipality. This definition is effective January 1, 2004, for taxable years 2004 and later. (Ord. 2004-218. Passed 12-21-04.)

173.03 RATE AND INCOME TAXABLE.

An annual tax for the purpose specified in Section 173.01 shall be imposed on and after July 1, 1981, at the rate of two percent (2%) per year upon the following:

- (a) On all salaries, qualifying wages, commissions and other compensation earned and received or earned and accrued on and after July 1, 1981 by residents of the City of Bedford Heights. "Other compensation" shall include, but is not limited to, income from gambling, gaming, wagering, lotteries (including the Ohio State Lottery) and schemes of chance (to which no regard is given to losses or to the location where such gambling, gaming, wagering lotteries and schemes of chance were received) as well as all other compensation listed as "Other Compensation" in Section 173.02(w) herein.

- (b) On all salaries, qualifying wages, commissions and other compensation earned and received or earned and accrued on and after July 1, 1981 by nonresidents of the City of Bedford Heights for work done or services performed or rendered OF attributed to work done or services performed or rendered within the City of Bedford Heights.

A non-resident who works in the City of Bedford Heights twelve (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 days. For purposes of the 12-day calculation, any portion of a day worked in the City of Bedford Heights shall be counted as one day worked in the City. Beginning with the thirteenth 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 of Bedford Heights in accordance with the requirements of this Chapter. 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 of Bedford Heights by the individual for the first twelve days. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the City of Bedford Heights. The 12-day occasional entry rules 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) On the portion attributable to the City of the net profits earned and received or earned and accrued after July 1, 1981 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 of Bedford Heights.
- (d) On the portion of the distributive share of the net profits earned and received or earned and accrued on and after July 1, 1981, of a resident partner or owner of a resident - unincorporated business entity not attributable to the City of Bedford Heights and not levied against such unincorporated business entity.
- (e) On the portion attributable to the City of the net profits earned and received or earned and accrued on or after July 1, 1981, 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 of Bedford Heights, whether or not such unincorporated business entity has an office or place of business in the City of Bedford Heights.
- (f) On the portion of the distributive share of the net profits earned and received or earned and accrued on or after July 1, 1981, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City of Bedford Heights and not levied against such unincorporated business entity.
- (g) On the portion attributable to the City of the net profits earned and received or earned and accrued on and after July 1, 1981, of all corporations derived from sales made, work done, services performed or rendered and business or activities conducted in the City of Bedford Heights whether or not such corporations have an office or place of business in the City of Bedford Heights.

- (h) On the portion of the distributive share of the net profits earned and received of a resident shareholder of S Corporation income (but for tax years after 2004 only on such income that represents wages as defined in section 3121 (a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code), whether or not such S Corporation business entity has an office or place of business in the City of Bedford Heights.
The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City of Bedford Heights shall be determined as provided in Sections 718.01 and 718.02 of the Ohio Revised Code in accordance with the Rules and Regulation adopted pursuant to this chapter.
(Ord. 2004-218. Passed 12-21-04.)

173.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the salaries, qualifying wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned and received or accrued on and after July 1, 1981.
(Ord. 2004-218. Passed 12-21-04.)

173.05 METHOD OF DETERMINATION.

The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Bedford Heights, 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 of Bedford Heights 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 and tangible personal 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 of Bedford Heights 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 of Bedford Heights 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, by approval of the Administrator and under uniform regulations, be substituted so as to produce such result.

If the Administrator approves the use of books and records as a substitute method, the following shall apply:

- (1) The net profits allocable to the City of Bedford Heights from business, professional or other activities conducted in the City by corporations or unincorporated entities (whether resident or non-resident) maybe determined from the records of the taxpayer only if the taxpayer has bonafide records which disclose with reasonable accuracy what portion of its net profits is attributable to the part of its activities conducted within the City of Bedford Heights.
- (2) If the books and records of the taxpayer are used for 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 of Bedford Heights are apportioned with reasonable accuracy.
- (3) In determining the income allocable to the City of Bedford Heights 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 of Bedford Heights.

(Ord. 2004-218. Passed 12-21-04.)

173.06 SALES MADE IN THE CITY.

As used in Section 173.05(c), "sales made in the City" means:

- (a) All sales of tangible personal property which is delivered within the City of Bedford Heights regardless of where title passes if shipped or delivered from a stock of goods within the City.
- (b) All sales of tangible personal property which is delivered within the City of Bedford Heights regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged, through its own employees, in the solicitation or promotion of sales within the City of Bedford Heights and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the City of Bedford Heights to purchasers outside the City 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.

(Ord. 2004-218. Passed 12-21-04.)

173.07 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 173.05(a), (b) and (c) 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 such total in order to obtain the business allocation percentage referred to in Section 173.05.

A factor is applicable even though it may be allocable entirely in or outside the City of Bedford Heights. (Ord. 2004-218. Passed 12-21-04.)

173.08 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 173.03(c) through (g) 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 one hundred twenty-five dollars (\$ 125.00) 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 one hundred twenty-five dollars (\$125.00) 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 one hundred twenty-five dollars (\$125.00) 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 one hundred twenty-five dollars (\$125.00) per month.
(Ord. 2004-218. Passed 12-21-04.)

173.09 OPERATING LOSS-CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to March 1, 1968, allocable to the City of Bedford Heights may be applied against the portion of the profit of the succeeding tax year 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 of Bedford Heights in the same manner as provided herein for allocating net profits to the City.

(c) The Tax Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.
(Ord. 2004-218. Passed 12-21-04.)

173.10 SOURCES OF INCOME NOT TAXED.

The tax provided 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 and by enumeration in Ohio R.C. 718.01 or Section 501(a) of the Internal Revenue Code.
- (b) Poor relief, unemployment insurance benefits; social security, medicare, old age pensions or similar payments, including disability benefits received from private industry or local, state or federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of 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 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 (but not including damages for loss of profits) or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends, or other revenue and royalties 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 of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes.
- (l) Gifts, (other than those in connection with employment), inheritances, and scholarships used for tuition and course-related expenses.
- (m) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as 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. 2004-218. Passed 12-21-04.)

173.11 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 30th of the year following the effective date of this chapter, and on or before April 30th for years prior to taxable year 2004, or on or before April 15th for taxable years 2004 and thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period for years prior to taxable year 2004, or on or before 105 days thereafter for taxable years 2004 and thereafter. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Administrator, shall be accepted as the return required of an employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.
(Ord. 2004-218. Passed 12-21-04.)

173.12 FORM AND CONTENT OF RETURN.

The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from such Tax Administrator (or a generic form if the generic form once completed and filed contains all of the information required to be submitted with the prescribed returns of the City of Bedford Heights and if the taxpayer or return preparer filing the generic form otherwise complies with the rules and ordinances of the City of Bedford Heights governing its filing) setting forth:

- (a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from the 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 (or expenses allowable in the calculation of Adjusted federal income taxable income for tax years 2004 and thereafter.) However, the format of such forms may be altered by the Tax Administrator and another format prescribed.
 - (b) The amount of the tax imposed by this chapter on such earnings and profits.
 - (c) Such other pertinent statements, information returns or other information as the Tax Administrator may require.
- (Ord. 2004-218. Passed 12-21-04.)

173.13 EXTENSION OF TIME FOR FILING RETURNS.

(a) The Tax Administrator may extend the time for filing of the annual return to the end of the month of any extension date requested or granted by the Internal Revenue Service for filing of the taxpayer's Federal income tax return. The taxpayer shall request an extension in writing and attach a copy of the filed Federal Internal Revenue Service extension request. Such original extension request shall be filed by the taxpayer with the Tax Administrator by the original due date for the return.

(b) The taxpayer shall file similar requests for any further extensions with the Tax Administrator and attach a copy of the Federal Internal Revenue Service extension request by the date of the latest extension granted by the Tax Administrator.

(c) For failure or neglect to file the above-required extension requests by the above due dates, the taxpayer shall be assessed and be subject to the late filing penalty in the amount of twenty-five dollars (\$25.00) pursuant to Section 173.24(b).

(d) The Tax 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 a return is filed and the final tax paid within the period as extended, provided this section has been complied with by the taxpayer.

(e) The Administrator may deny the extension if the taxpayer's income tax account with the City of Bedford Heights is delinquent in any way.

(Ord. 2004-218. Passed 12-21-04.)

173.14 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Tax Administrator. Any affiliated group which files a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code may field a consolidated return with the City of Bedford Heights. However, once the affiliated group has elected to file a consolidated return or a separate return with the City, the affiliated group may not change their method of filing in any subsequent tax year without written approval from 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 case any person operates a division, branch, factory, office, laboratory or activity within the City of Bedford Heights constituting a portion only of its total business, the Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Tax 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 such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Bedford Heights. (Ord. 2004-218. Passed 12-21-04.)

173.15 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 173.30 through 173.35. Such amended return shall be on a form obtainable on request from the Tax 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 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. 2004-218. Passed 12-21-04.)

173.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax 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 173.17, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 173.18, or where an income tax has been paid to another Municipality, credit for the amount so paid in accordance with Section 173.33 or 173.34 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 such 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. 2004-218. Passed 12-21-04.)

173.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Tax Administrator, each employer within or doing business within the City of Bedford Heights shall deduct at the time of the payment of such salary, qualifying wage, commission or other compensation, the tax imposed by Section 173.03 on the gross salaries, qualifying wages, commissions or other compensation due by the employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Tax Administrator the amount of taxes so deducted, subject to the provisions of subsections (c), (d) and (e) hereof. Such returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the rules and regulations prescribed therefor by the Tax 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.

(b) 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 his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(c) Such employer who deducts the tax in an amount of two hundred fifty dollars (\$250.00) or more in the first or second month of a calendar quarter shall, on or before the twentieth day of the following month, pay to the Tax Administrator the amount of taxes so deducted.

(d) Such employer who makes such payments on a monthly basis for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld.

(e) Such payments shall be on a form or forms furnished by or obtainable upon request from the Tax Administrator, setting forth the amount of tax deducted for the month.

(f) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City of Bedford Heights, but such employee shall be subject to all of the requirements of this chapter.
(Ord. 2004-218. Passed 12-21-04.)

173.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

(a) Every person who anticipates any taxable income which is not subject to Section 173.17 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 173.03 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, if any. However, if a person's income is wholly from wages from which the full tax will be withheld and remitted to the City, or to another income taxing city, in accordance with Section 173.17, such person need not file a declaration.

(b) No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period, or if 90% of the actual liability has been received. (Ord. 2004-218. Passed 12-21-04.)

173.19 FILING OF DECLARATION.

(a) The declaration required by Section 173.18 shall be filed on or before April 30th of each year (and on or before April 15th for taxable years 2005 and thereafter) during the effective period set forth in Section 173.04 or within four months of the date the taxpayer becomes subject to tax for the first time (or within 105 days thereafter for taxable years 2005 and thereafter.) The declaration required by Section 173.04 for the first calendar quarter of 1968 shall be due on or before April 30, 1968, and shall include the period March 1, 1968, to April 1, 1968.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period (or within 105 days thereafter for taxable years 2005 and thereafter.) (Ord. 2004-218. Passed 12-21-04.)

173.20 FORM OF DECLARATION.

(a) The declaration required by Section 173.18 shall be filed upon a form furnished by, or obtainable from, the Tax Administrator, provided, however, that credit shall be taken for City tax to be withheld from any portion of such income. In accordance with the provisions of Section 173.34 or 173.35, credit may be taken for tax to be paid or to be withheld and remitted to another taxing Municipality.

(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. 2004-218. Passed 12-21-04.)

173.21 PAYMENT TO ACCOMPANY DECLARATION.

(a) Prior to January 1, 2003, 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 sixth, ninth and twelfth months after the beginning of the taxable year.

(b) Effective January 1, 2003, the declaration of Estimated Tax to be paid to the City of Bedford Heights 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.

(c) Effective January 1, 2003, such declaration of estimated tax to be paid to the City of Bedford Heights by corporations and associations shall be accompanied by a payment of at least one-fourth 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 of the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.

(d) However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. (Ord. 2004-218. Passed 12-21-04.)

173.22 ANNUAL RETURN.

On or before the last day of the fourth month of the calendar or fiscal year for years prior to taxable year 2004 (or on or before April 15th or on or before 105 days after the beginning of each fiscal year or period for taxable years 2004 and thereafter), 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 173.16. (Ord. 2004-218. Passed 12-21-04.)

173.23 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent (1 %) per month or fraction thereof. (Ord. 2004-218. Passed 12-21-04.)

173.24 PENALTIES ON UNPAID TAX AND UNFILED RETURNS OR DECLARATIONS.

(a) In addition to interest as provided in Section 173.23, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due other than taxes withheld: one percent (1 %) per month or fraction thereof or twelve percent (12 %), whichever is greater.
- (2) For failure to remit taxes withheld from employees: six percent (6 %) per month or fraction thereof or twelve percent (12 %), whichever is greater.
- (3) Any penalty assessed hereunder shall be in the minimum amount of ten dollars (\$10.00).

(b) For the failure or neglect to timely file any return or declaration required by this chapter, there shall be assessed a penalty in the amount of twenty-five dollars (\$25.00). (Ord. 2004-218. Passed 12-21-04.)

173.25 PENALTY EXCEPTIONS.

(a) A penalty on unpaid taxes shall not be assessed on an additional tax assessment made by the Tax Administrator when a return has been timely filed in good faith and the tax paid thereon within the time prescribed by the Tax 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 in three months after a final determination of the federal tax liability.

(b) For good cause shown, the Tax Administrator may waive the penalty assessed for the failure or neglect to timely file any return or declaration required by this chapter when such return or declaration is filed within the time prescribed by the Tax Administrator. (Ord. 2004-218. Passed 12-21-04.)

173.26 ABATEMENT OF INTEREST AND PENALTY.

Either the Tax Administrator or the Board of Review may abate penalty or interest or both, for good cause shown. (Ord. 2004-218. Passed 12-21-04.)

173.27 VIOLATIONS.

No person shall:

- (a) Fail to complete and timely return the registration statement provided for in Section 173.28 or the tenant identification form provided for in Section 173.53; or
 - (b) Fail, neglect or refuse to make any return or declaration required by this chapter; or
 - (c) Make any incomplete, false or fraudulent return; or
 - (d) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
 - (e) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Tax Administrator; or
 - (f) Refuse to permit the Tax 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 profits of a taxpayer; or
 - (g) Fail to appear before the Tax 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 of subpoena of the Tax Administrator; or
 - (h) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or
 - (i) Fail to comply with the provisions of this chapter or any order of subpoena of the Tax Administrator authorized hereby; or
 - (j) 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
 - (k) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or knowingly give the Tax Administrator false information; or
 - (l) 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. 2004-218. Passed 12-21-04.)

173.28 TAXPAYER REGISTRATION STATEMENT.

The Tax Administrator is hereby authorized to prepare and disseminate a registration statement. Each and every individual, partnership, association, corporation or other entity resident in the City of Bedford Heights or receiving income for services performed in the City of Bedford Heights, or having business activities and income fairly allocable to the City, if not a resident of the City of Bedford Heights, is required to accurately and fully complete the registration statement, and within the time limits prescribed thereon by the Tax Administrator, to return such statement to the Administrator.

The fact that a registration statement is not received shall in no manner negate or alleviate the prospective taxpayer's legal obligation for its completion and return to the Administrator. Such statement shall be available at the City Hall Income Tax Office and through any other means or sources which the Tax Administrator may designate.

Failure or refusal to accurately and fully complete and return the registration statement shall constitute a violation of this chapter. (Ord. 2004-218. Passed 12-21-04.)

173.29 PROSECUTIONS WITHIN TIME LIMITATION.

All prosecutions under this section must be commenced within five years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed. (Ord. 2004-218. Passed 12-21-04.)

173.30 FAILURE TO PROCURE FORMS NOT 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. 2004-218. Passed 12-21-04.)

173.31 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

(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. Except in the case of fraud or omission of twenty-five percent or more 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, provided, however, that in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Tax Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) The Tax Administrator is hereby authorized, in addition to his other duties, to institute civil law suits to collect delinquent taxes due and owing to the City by virtue of the provisions of this chapter. The Tax Administrator is authorized to waive penalties and interest, compromise tax liability and accept waivers of statutes of limitations. (Ord. 2004-218. Passed 12-21-04.)

173.32 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded if the application for refund is not made within three years from the date on which such payment was made or the return was due. (Ord. 2004-218. Passed 12-21-04.)

173.33 AMOUNTS OF LESS THAN FIVE DOLLARS. (REPEALED)

(EDITOR'S NOTE: Former Section 173.33 was repealed by Ordinance 2004-218, passed December 21, 2004.)

173.34 TAXATION BY ANOTHER MUNICIPALITY.

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

(b) Nothing contained in this chapter shall be construed as authorizing or allowing reciprocal tax credits with any other municipality or taxing authority. (Ord. 2004-218. Passed 12-21-04.)

173.35 BASIS FOR TAXATION CREDIT.

Every individual taxpayer who resides or is domiciled in the City of Bedford Heights but receives net profits, salaries, qualifying wages, commissions, other personal service compensation, or a distributive share of net profits from a resident or nonresident unincorporated business entity of which he is a partner or owner (or an S Corporation of which he is a shareholder for tax years through 2004), for work done or services performed or rendered outside the City, it being made to appear that he or such business entity has paid a municipal income tax on or with respect to the same income taxable under this chapter to another municipality, he shall be allowed a credit against the tax imposed by this chapter in the amount so paid him, in his behalf or by such business entity (or S Corporation for tax years through 2004) to such other municipality. In no event, however, shall any such municipal income tax to the extent paid to another municipality and allowed as a credit hereunder be deductible in computing the net profits of such taxpayer or such business entity. In addition, such 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. (Ord. 2004-218. Passed 12-21-04.)

173.36 REFUND PROCEDURE.

A claim for refund or credit under Section 173.35 shall be made in such manner as the Administrator may, by regulation, provide. (Ord. 2004-218. Passed 12-21-04.)

173.37 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) shall be deposited in the General Fund for municipal purposes.
- (Ord. 2004-218. Passed 12-21-04.)

173.38 TAX ADMINISTRATOR.

There is hereby created the position of Tax Administrator for the City of Bedford Heights. The Finance Director shall be the Tax Administrator and shall perform the duties hereinafter set forth. (Ord. 2004-218. Passed 12-21-04.)

173.39 DUTIES; CITY CONTRACTS.

(a) Duty to Receive Tax Imposed. It shall be the duty of the Tax 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.

(b) Duty to Enforce Collection. It shall be the duty of the Tax 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.

(c) Contract Provisions. No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains a provision whereby the contractor agrees to withhold all City income taxes due or payable under this chapter for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City income taxes due under this chapter for services performed under such contract. (Ord. 2004-218. Passed 12-21-04.)

173.40 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Tax 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 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.
(Ord. 2004-218. Passed 12-21-04.)

173.41 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Tax Administrator is authorized at his discretion to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax 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 173.31 and 173.27 shall apply. (Ord. 2004-218. Passed 12-21-04.)

173.42 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 Tax Administrator may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
(Ord. 2004-218. Passed 12-21-04.)

173.43 AUTHORITY TO MAKE INVESTIGATIONS.

The Tax Administrator or his duly authorized agent or 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 Tax 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 Tax Administrator or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.
(Ord. 2004-218. Passed 12-21-04.)

173.44 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

The Tax 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. For this purpose he 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. 2004-218. Passed 12-21-04.)

173.45 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns or the refusal to submit to such examination by any employer or persons 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 Tax Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 173.99.
(Ord. 2004-218. Passed 12-21-04.)

173.46 CONFIDENTIAL NATURE OF INFORMATION OBTAINED; DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) Except for the disclosure of returns and return information as specifically authorized by this section, except for official purposes, or except in accordance with proper judicial order, any information gained as a result of any investigations, hearings, verifications or returns, including returns or return information received from Federal, State or local taxing authorities pursuant to authorization by this section, required or authorized by this chapter shall be confidential and shall not be divulged by any person.

(b) The Tax Administrator is hereby authorized to enter into agreements with the United States Commissioner of the Internal Revenue Service, an Internal Revenue Service District Director, the State of Ohio Tax Commissioner, and the heads of other State and local taxing authorities providing for the disclosure and exchange by the Tax Administrator and each of the aforementioned officials, for tax collection purposes, of returns or return information under his or her jurisdiction. The Tax Administrator is further hereby authorized to pay the costs of services, materials or information received pursuant to such agreements and to charge such officials for services, materials or information rendered.
(Ord. 2004-218. Passed 12-21-04.)

173.47 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 paid.
(Ord. 2004-218. Passed 12-21-04.)

173.48 BOARD OF REVIEW ESTABLISHED.

(a) A Board of Review of three members is hereby created consisting of the Chairman of the Council Finance Committee, the Director of Law and the Director of Finance. In the event that the Director of Finance is appointed as the Tax Administrator, then he shall not serve on the Board of Review and the Mayor shall appoint another person to serve in his stead. Such person so appointed by the Mayor shall be an elector of the City and shall serve for a term of one year, such term expiring on December 31 of each year.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Tax Administrator 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.
(Ord. 2004-218. Passed 12-21-04.)

173.49 RIGHT TO APPEAL.

Any person dissatisfied with any ruling or decision of the Tax 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 the City of Bedford Heights the required return or other documents concerning the obligation 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 forty-five days from the date of the appeal. The Board's ruling must be made within thirty days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within fifteen days of its decision shall send a notice of its decision by ordinary mail to the taxpayer making the appeal. Any person dissatisfied with any ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.
(Ord. 2004-218. Passed 12-21-04.)

173.50 BOARD TO ESTABLISH RULES AND REGULATIONS.

The Board of Review shall elect from its members, a Chairman, a Vice-Chairman and a Secretary. A majority of the members shall constitute a quorum. Any member may appoint a deputy to act for him at meetings of the Board. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings upon appeal by the Board shall be conducted privately, unless a public hearing is requested by the taxpayer, and the provisions of Section 173.46 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. 2004-218. Passed 12-21-04.)

173.51 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 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. 2004-218. Passed 12-21-04.)

173.52 COLLECTION OF TAX TO BE COMPLETED.

(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 periods are fully paid and any and all suits and prosecutions for the collection of such taxes for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 173.31, 173.32, 173.33, 173.25, 173.29 and 173.30.

(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 Sections 173.11 and 173.17 as though the same were continuing.
(Ord. 2004-218. Passed 12-21-04.)

173.53 TENANT IDENTIFICATION AND INFORMATION STATEMENTS.

(a) The Tax Administrator is hereby authorized to prepare and disseminate an annual Tenant Identification Statement. Each commercial, industrial or residential taxpayer or designated agent thereof receiving rental income which constitutes a business activity pursuant to Section 173.08 is required to accurately and fully complete the Tenant Identification Statement and file the same with the Tax Administrator, or his duly authorized agent, by December 1 of each year.

(b) Each commercial, industrial or residential taxpayer or designated agent thereof shall also file with the Tax Administrator a separate Tenant Information Statement for each tenant within thirty days of the time any former tenant moves out or any new tenant commences occupancy.

(c) The fact that an annual Tenant Identification Statement or Tenant Information Statements are not received by a taxpayer or designated agent shall in no manner negate or alleviate the taxpayer's or the agent's obligation for their completion and timely filing. Such Tenant Identification and Tenant Information Statements shall be available at the City Hall Income Tax Office and through any other sources the Tax Administrator may designate.

(d) It shall be the duty of the taxpayer and the designated agent to accurately and fully complete and timely file the Tenant Identification and Tenant Information Statements. A taxpayer or designated agent who fails to accurately and fully complete and timely file a required Tenant Identification Statement or Tenant Information Statement shall be deemed guilty of a violation of this chapter.

(Ord. 2004-218. Passed 12-21-04.)

173.54 PERSONAL LIABILITY OF RESPONSIBLE OFFICERS AND EMPLOYEES TO FILE RETURNS OR DECLARATIONS AND TO PAY TAX OR EMPLOYER WITHHOLDING DUE.

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 and shall be subject to the penalties set forth in Section 173.99 thereof for such violations. 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. 2004-218. Passed 12-21-04.)

173.55 OFFSETS FOR EMPLOYEE'S BUSINESS DEDUCTIONS.

Federal Schedule A - Itemized Deductions, including Form 2106 Employee Business Expenses, cannot offset any taxable income, unless an employee's business allowance is included in gross income, then an employee's business deduction is allowed up to the amount included in gross income. (Ord. 2004-218. Passed 12-21-04.)

173.56 ADOPTION OF R.I.T.A.'S RULES AND REGULATIONS.

(a) Effective January 1, 1996, there is hereby adopted for the purpose of establishing rules and regulations for the collection of municipal income taxes and the administration and enforcement of this chapter the Rules and Regulations of the Regional Income Tax Agency (R.I.T.A.), in the most current edition or update thereof, including all additions, deletions, and amendments made subsequent hereto, and the same are hereby incorporated herein as if fully set out at length save and except such portions as may be hereinafter added, modified, or deleted therein.

(b) R.I.T.A.'s Rules and Regulations shall be in addition to any rules and regulations adopted and promulgated by the Tax Administration pursuant to authority granted under Section 173.04 herein. In any matter where a rule or regulation adopted and promulgated by the Tax Administrator conflicts with any of R.I.T.A.'s Rules and Regulations, the rule or regulation adopted and promulgated by the Tax Administrator shall prevail over and render null and void the R.I.T.A. rule or regulation with respect to the City of Bedford Heights.
(Ord. 2004-218. Passed 12-21-04.)

173.57 LOCAL JOB CREATION INCOME TAX CREDITS.

(a) Council may grant, by ordinance, local job creation income tax credits against the City's income tax under Ohio R.C. 718.15 to taxpayers who also receive a tax credit from the State of Ohio under Ohio R.C. 122.17 for a project that will create jobs in the City.

(b) The local job credit income tax credit shall be measured as a percentage of the new income tax revenue the City derives from new employees of the taxpayer and shall be for a term not exceeding ten years.

(c) The local job credit income tax credit shall be based upon a finding by Council that the project:

- (1) Will create jobs in the state and the City;
- (2) Is economically sound and will benefit the people of the state and the City by increasing opportunities for employment and strengthening the economy of the State and the City; and
- (3) Receiving the tax credit is a critical factor in the decision of the taxpayer to go forward with the project.

(d) The City and the taxpayer shall enter into an agreement specifying all the conditions of the credit prior to passing an ordinance granting the local job creation income tax credit.
(Ord. 2004-218. Passed 12-21-04.)

173.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided, shall be guilty of a misdemeanor of the first degree for each offense.

(b) Whoever violates Section 173.46 shall be punished as provided in subsection (a) hereof and shall, in addition, be subject to immediate dismissal from service to the City. Each disclosure shall constitute a separate offense.
(Ord. 2004-218. Passed 12-21-04.)