

**AN ORDINANCE AMENDING SECTION 193.17 OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOWICK, AND DECLARING AN EMERGENCY.**

**WHEREAS**, Section 193.17 of the Codified Ordinances of the City of Willowick Provides for the collection of earned income tax at the source of payment; and

**WHEREAS**, there exists no provision in Section 193.17 to provide for the collection of earned income tax in the event that the employer does not forward the withheld funds to the City as required under the provisions Chapter 193; and

**WHEREAS**, the Council and the Administration are of the opinion that Section 193.17 of the Codified Ordinances should be amended to add a mandate that the applicable personnel of the employer should be held personally liable for payment of the income taxes withheld in the event that the employer does not forward the withheld funds to the City as required under the provision of Chapter 193.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOWICK, COUNTY OF LAKE, STATE OF OHIO, THAT:**

**Section 1.** Section 193.17 shall be amended to add subsection (k) and read as follows:

**193.17 COLLECTION AT SOURCE.**

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

**Section 2.** All formal actions of this Council concerning the passage of this Ordinance were adopted in an open meeting, and all deliberations of this Council, or any of its Committees, which resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 3.12 of the Charter of the City of Willowick, and Section 121.22 of the Ohio Revised Code.

**Section 3.** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, welfare and dignity of the residents of the City of Willowick.

WHEEREFOR, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.

Adopted by Council: JUL 07 2009

Judy Moran  
Judy Moran, President of Council

Attest: Kathy Russo  
Kathy Russo, Clerk of Council

Approved by Mayor: JUL 08 2009

Richard J. Bonde  
Richard J. Bonde, Mayor

PART ONE - ADMINISTRATIVE CODE  
TITLE ELEVEN - Taxation  
CHAPTER 193 Earned Income Tax

CHAPTER 193  
Earned Income Tax

- 193.01 Purpose of levy of income tax.
- 193.02 Definitions.
- 193.03 Rate and taxable income.
- 193.04 Effective period.
- 193.05 Determination of allocation of tax.
- 193.06 Sales made in the City.
- 193.07 Total allocation.
- 193.08 Rentals.
- 193.09 Operating loss carry-forward, regulations.
- 193.10 Sources of income not taxed.
- 193.11 When return required to be made. payments.
- 193.12 Form and content of return.
- 193.13 Extension of time for filing due.
- 193.14 Consolidated returns.
- 193.15 Amended returns. records.
- 193.16 Payment of tax on filing of return.
- 193.17 Collection at source.
- 193.18 Declarations of income not obtained.
- 193.19 Filing of declaration.
- 193.20 Form of declaration, collection facilities.
- 193.21 Payment to accompany declaration.
- 193.22 Annual return.
- 193.23 Interest on unpaid tax.
- 193.24 Penalties on unpaid tax.
- 193.25 Exceptions.
- 193.26 Abatement of interest and penalty.
- 193.27 Violations.
- 193.28 Limitation on prosecution.
- 193.29 Failure to procure forms no excuse.
- 193.30 Unpaid taxes recoverable as other debts.
- 193.31 Refunds of taxes erroneously paid.
- 193.32 Amounts of less than one dollar.
- 193.33 Resident subject to income tax in other municipality.
- 193.34 Disbursement of receipts of tax collection.
- 193.35 Duty to receive tax imposed.
- 193.36 Duty to enforce collection.
- 193.37 Authority to make and enforce regulations.
- 193.38 Authority to arrange installment payments.

- 193.39 Authority to determine amount of tax due.
- 193.40 Authority to make investigations.
- 193.41 Authority to compel production of records.
- 193.42 Refusal to produce records.
- 193.43 Confidential nature of information obtained.
- 193.44 Taxpayer required to retain records.
- 193.45 Authority to contract for central collection facilities.
- 193.46 Assignment of administrator's duties.
- 193.47 Board of Review established.
- 193.48 Duty to approve regulations and to hear appeals.
- 193.49 Right of appeal.
- 193.50 Separability.
- 193.51 Collection of tax after termination of chapter.
- 193.52 Reports by owners of rental property.
- 193.53 Authority of RITA to deduct costs from moneys due the City.
- 193.99 Penalty.

#### CROSS REFERENCES

- Charter provisions - see CHTR. Art. IX, § 3
- Power to levy income tax - see Ohio Const., Art. XVIII, § 3
- Municipal income taxes - see Ohio R.C. Ch. 718

#### 193.01 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purpose of general Municipal functions there is hereby levied an annual tax on all salaries, wages, commissions and other compensation, and on net profits, as hereinafter provided, which tax shall be at the rate of two percent (2%), one percent (1%) of which is imposed and levied pursuant to Article IX, Section 9.3 of the City Charter.  
(Ord. 81-51. Approved by voters 8-6-85.)

#### 193.02 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 individual appointed by the Mayor and designated to enforce the provisions of the earned income tax.
- (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 193.47.
- (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, 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" 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.

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

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

(m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "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 of Willowick.

(p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Willowick. (Ord. 68-35. Passed 6-19-68.)

(q) "Taxable income" means wages, salaries, commissions, net profits from the operation of a business or profession or other enterprise or activity, adjusted in accordance with the provisions of this chapter, and other compensation, including, but not limited to, income derived from gaming, wagering, lotteries or schemes of chance. (Ord. 96-29. Passed 4-2-96.)

(r) "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.

(s) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 68-35. Passed 6-19-68.)

### 193.03 RATE AND TAXABLE INCOME.

An annual tax for the purposes specified in Section 193.01 shall be imposed on and after September 1, 1985, at the rate of two percent (2%) per year upon the following:

(a) On all salaries, wages, commissions and other compensation earned on and after September 1, 1985, by residents of the City.

(b) On all salaries, wages, commissions and other compensation earned on and after September 1, 1985, by nonresidents of the City for work done or services performed or rendered within the City.

(c) (1) On the portion attributable to the City on the net profits earned on and after September 1, 1985, 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 September 1, 1985, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such incorporated business entity.

(d) (1) On the portion attributable to the City of the net profits earned on or after September 1, 1985, 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 or after September 1, 1985, 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.

(e) On the portion attributable to the City of the net profits earned on and after September 1, 1985, 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.

(Ord. 85-51. Approved by voters 8-6-85.)

#### 193.04 EFFECTIVE PERIOD.

The earned income tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after September 1, 1985.

(Ord. 85-51. Approved by voters 8-6-85.)

#### 193.05 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 shall 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 sites 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 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 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.

(Ord. 68-35. Passed 6-19-68.)

#### 193.06 SALES MADE 1N THE CITY.

As used in subsection (c) of Section 193.05 "sales made in the City" means:

(a) All sales of tangible personal property which is 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 which is 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 its own employees in the solicitation or promotion of sales within the City 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 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. 68-35. Passed 6-19-68.)

#### 193.07 TOTAL ALLOCATION.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 193.05 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 193.05.



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

(Ord. 68-35. Passed 6-19-68.)

#### 193.08 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 193.03 (c), (d) and (e) 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. Further, 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. Further, 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. 68-35. Passed 6-19-68.)

#### 193.09 OPERATING LOSS CARRY-FORWARD,

(a) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1968, allocable to the City 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. 68-35. Passed 6-19-68.)

193.10 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 government 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) 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 decedents estate during the period of administration, except such income from the operation of a business.

(i) 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.

(j) 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.

(Ord. 68-35. Passed 6-19-68 ; Ord. 86-16. Passed 3-4-86.)

#### 193.11 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer, except as herein provided, shall, whether or not a tax is due, make and file a return on or before April 30 of the year following the effective date of this chapter (Ordinance 68-35, passed June 19, 1968), and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The 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 Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.  
(Ord. 68-35. Passed 6-19-68.)

#### 193.12 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 the 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. 68-35. Passed 6-19-68.)

#### 193.13 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing 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 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. 68-35. Passed 6-19-68.)

#### 193.14 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 case any person operates 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 such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.  
(Ord. 68-35. Passed 6-19-68.)

#### 193.15 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 193.30 through 193.33. 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 a refund of any overpayment.  
(Ord. 68-35. Passed 6-19-68.)

#### 193.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof pay to the Administrator the amount of taxes shown as due thereon; however, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 193.17, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 193.18, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 193.33 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. 68-35. Passed 6-19-68.)

#### 193.17 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, wage, commission or other compensation, the amount of tax imposed by Section 193.17 on the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsections (c) to (e) hereof. Returns shall be on a form prescribed by or acceptable to the Administrator, and shall be subject to the rules and regulations prescribed therefor 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.

(Ord. 82-56. Passed 7-14-82.)

(b) The employer in collecting the 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.

(Ord. 68-35. Passed 6-19-68.)

(c) The employer who deducts the tax of one hundred dollars (\$100.00) or more per month shall pay to the administrator before the twentieth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer exceeds one hundred dollars (\$100.00) in taxes withheld.

(Ord. 82-54. Passed 7-6-82.)

(d) The employer who makes such payments on a monthly basis for the first two months of a calendar quarter shall pay the 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) Payments shall be on a form or forms furnished by or obtainable upon request from the Administrator, setting forth the amount of tax deducted for the month. A receipted copy of such form shall be returned to the employer to be attached to and filed with the employer's quarterly return of income tax withheld.

(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 but the employee shall be subject to all of the requirements of this chapter.  
(Ord. 68-35. Passed 6-19-68.)

(g) For purposes of this division, "contractor" means any person who enters into a written or oral contract or agreement to provide goods, services and/or labor within the corporate limits of the City. Each contractor, per contract or agreement, shall inform the Office of the City Finance Director, in writing, of the name and business address of each subcontractor of that contractor. Such notification shall occur within five days after the contractor/subcontractor relationship is established.

(h) For purposes of this division "subcontractor" means any person who enters into a written or oral contract or agreement to provide goods, services and/or labor within the corporate limits of the City. Each subcontractor, per contract or agreement, shall inform the Office of the City Finance Director, in writing, of the name and business address of each contractor with which said subcontractor has entered such contract or agreement. Such notification shall occur within five days after the contractor/subcontractor relationship is established.

(i) No taxpayer, person, contractor, subcontractor or other entity (including an occasional entrant or de minimus person, contractor, subcontractor or other entity) shall provide, for monetary consideration, any goods, services and/or labor within the City unless and until that taxpayer or person registers, in writing, with the Office of the City Finance Director.

(j) For purposes of this division, such registration shall consist of the identification of the taxpayer, person, contractor, subcontractor or other entity's name, address, telephone number, tax identification number, and other relevant and necessary information.  
(Ord. 2005-22. Passed 3-15-05.)

#### 193.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

(a) Every person who anticipates any taxable income which is not subject to Section 193.17, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 193.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City in accordance with Section 193.17, such person need not file a declaration.

(b) Every individual, business, employer, broker or other person who or which is required under the Internal Revenue Code to furnish Form 1099 to the Internal Revenue Service (I.R.S.) for individuals or businesses to whom or which

they have paid nonemployee earned compensation, shall furnish copies of the Form 1099 to the Tax Administrator, or in lieu thereof a listing containing the same information as required by the I.R.S. on the Form 1099, on or before the due date for such form as established by the I.R.S.  
(Ord. 92-63A. Passed 9-15-92.)

#### 193.19 FILING OF DECLARATION.

(a) The declaration required by Section 193.18 shall be filed on or before April 30 of each year during the effective period set forth in Section 193.04 or within four 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 four months after the beginning of each fiscal year or period.  
(Ord. 68-35. Passed 6-19-68.)

#### 193.20 FORM OF DECLARATION.

(a) The declaration required by Section 193.18 shall be filed upon a form furnished by, or obtainable from the Administrator, however, credit shall be taken for City tax to be withheld from any portion of such income. In accordance with the provisions of Section 193.33 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. 68-35. Passed 6-19-68.)

#### 193.21 PAYMENT TO ACCOMPANY DECLARATION.

The 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 when the estimated tax is fifty dollars (\$50.00) or more, and at least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth months after the beginning of the taxable year. 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. 95-42. Passed 10-17-95.)

#### 193.22 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 193.16.  
(Ord. 68-35. Passed 6-19-68.)

193.23 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 and one-half percent per month or fraction thereof.

(Ord. 87-22. Passed 3-17-87.)

193.24 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 193.23 penalties based upon the unpaid tax are hereby imposed as follows:

(a) For failure to pay taxes due other than taxes withheld: twenty-five percent (25%) of the first one hundred dollars (\$100.00) of taxes remaining unpaid after they become due, and an additional twenty-five dollars (\$25.00) on all taxes remaining unpaid after they become due in excess of one hundred dollars (\$100.00). Minimum penalty for failure to file an annual return when due and/or to pay tax when due is twenty-five dollars (\$25.00).

(b) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof.

(Ord. 80-42. Passed 7-1-80; Ord. 88-61. Passed 1-3-89.)

193.25 EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. Further, 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.

(Ord. 68-35. Passed 6-19-68.)

193.26 ABATEMENT OF INTEREST AND PENALTY.

(a) Either the Tax Administrator or the Board of Review may abate penalty or interest, or both, and upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

(b) The Tax Administrator shall report to Council any abatement of penalty or interest within one week of his decision to take such action, and shall maintain a record of all abatements.

(Ord. 95-2. Passed 1-17-95.)



193.27 VIOLATIONS.

No person shall:

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

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

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

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

(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 profits of a taxpayer;

(f) Fail to appear before the Administrator and 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;

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

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

(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 date thereof;

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

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

(Ord. 68-35. Passed 6-19-68.)

193.28 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within the time specified in Ohio R.C. 718.06.

193.29 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. 68-35. Passed 6-19-68.)

193.30 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, 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 the 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.

(Ord. 68-35. Passed 6-19-68.)

193.31 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 on which such payment was made or the return was due, or within free months after the final determination of the Federal tax liability, whichever is later.

(Ord. 68-35. Passed 6-19-68.)

193.32 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 68-35. Passed 6-19-68.)

193.33 RESIDENT SUBJECT TO INCOME TAX IN OTHER MUNICIPALITY.

(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 against the City income tax, which credit shall be an amount equal to eighty-seven and one-half percent of the amount of tax paid to the other municipality, but not to exceed eighty-seven and one-half percent of the tax due the City without any credit.

(Ord. 93-30. Passed 9-21-93.)

(b) In the event that such Willowick resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, such resident shall not be entitled to the credit provided for in subsection (a) hereof and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(Ord. 85-50. Passed 5-21-85.)

193.34 DISBURSEMENT OF RECEIPTS OF TAX COLLECTION.

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 for Municipal purposes.

(Ord. 68-35. Passed 6-19-68.)

193.35 DUTY 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, keep an accurate record thereof and report all moneys so received,

(Ord. G8-35. Passed 6-19-68.)

193.36 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the City, 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 show the dates and amounts of payments thereof.

(Ord. 68-35. Passed 6-19-68.)

193.37 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 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. 68-35. Passed 6-19-68.)

193.38 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is 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 193.30 and 193.27 shall apply.

(Ord. 68-35. Passed 6-19-68.)

#### 193.39 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 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. 68-35. Passed 6-19-68.)

#### 193.40 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. 68-35. Passed 6-19-68.)

#### 193.41 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. 68-35. Passed 6-19-68.)

#### 193.42 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 Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 193.27.

(Ord. 68-35. Passed 6-19-68.)

193.43 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

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. 68-35. Passed 6-19-68.)

193.44 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. 68-35. Passed 6-19-68.)

193.45 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Administrator may and he is authorized hereby to enter into an agreement, on behalf of the City, with any other municipal corporation, to permit such other municipal corporation to act as agent for the City for the purpose of administering the income tax laws of the City and of providing a central collection facility for the collection of the income tax on behalf of the City.

(Ord. 68-35. Passed 6-19-68.)

193.46 ASSIGNMENT OF ADMINISTRATOR'S DUTIES.

In the event the Administrator, on behalf of the City, enters into an agreement with any other municipal corporation to act as agent of the City for the purpose of administering the income tax laws of the City and of providing a central facility for the collection of the income tax, as provided in Section 193.45, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation.

(Ord. 68-35. Passed 6-19-68.)

193.47 BOARD OF REVIEW ESTABLISHED.

A Board of Review shall consist of two members of Council and the Director of Law. 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 193.43 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. 77-89. Passed 1-2-78.)

193.48 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must 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 empowered to substitute alternate methods of allocation.

(Ord. 68-35. Passed 6-19-68.)

193.49 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, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.

(Ord. 68-35. Passed 6-19-68.)

193.50 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified in this chapter is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 68-35. Passed 6-19-68.)

193.51 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue in effect 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 in effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Sections 193.30 through 193.32 and 193.27 through 193.29.

(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 193.11 and 193.17 as though the same were continuing.

(Ord. 68-35. Passed 6-19-68.)

193.52 REPORTS BY OWNERS OF RENTAL PROPERTY.

Every owner of rental real property in the City shall submit personally, or through a management agent, a list to the Administrator of names and addresses of all persons, firms, corporations or other entities occupying, leasing, renting or otherwise using premises in the City in such a manner as to produce economic benefit to such owner, whether or not such benefit is called "rent" and whether or not such benefit results in a profit or loss. Such list shall be prepared as of June 30 of each year and submitted on or before July 31 of each year; and shall be prepared by December 31 of each year and submitted on or before January 31 of the following year; and shall be prepared and submitted at such other times as may be prescribed by the Administrator.

(Ord. 87-25. Passed 4-7-87.)

193.53 AUTHORITY OF RITA TO DEDUCT COSTS FROM MONEYS DUE THE CITY.

(a) The Regional Income Tax Agency (RITA) is hereby authorized to deduct from the monthly distribution check due to the City of Municipal income taxes collected by RITA the following costs associated with the enforcement of the City's income tax laws and the collection of delinquent income taxes where applicable:

- (1) Costs of subpoena program, if any;
- (2) Court costs, if any.

(b) The Administrator is hereby authorized and directed to forward correspondence to RITA advising RITA of the contents of this section and authorizing RITA to make the aforesaid deductions from the monthly distribution checks of Municipal income taxes collected by RITA for the City as directed by the Administrator.

(Ord. 92-74. Passed 2-1fi-93.)

193.99 PENALTY.

(a) Whoever violates any of the provisions of Section 193.27 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense, except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event such person shall be fined not more than one thousand dollars (\$1, 000) or imprisoned not more than one year or both, for each offense.

(b) Whoever violates Section 193.43 shall be fined not more than one thousand dollars (\$1, 000) or imprisoned for 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 193.43 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.  
(Ord. 68-35. Passed 6-19-68.)

(c) Whoever violates or fails to comply with Section 193.52 shall be fined not more than twenty-five dollars (\$25.00).  
(Ord. 87-25. Passed 4-7-87.)