

CHAPTER 191
Income Tax

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CROSS REFERENCES

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

191.01 PURPOSE.

There is hereby levied a tax on salaries, wages, commissions and other compensation and on net profits as hereinafter provided, to provide funds for the purpose of general Municipal operation, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the City. (Ord. 78-4918. Passed 12-29-78.)

191.02 DEFINITIONS.

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

(1) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

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

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

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

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

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

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

G. In the case of charitable contributions, they shall not be allowed as a deductible expense.

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

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

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

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

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

(2) "Association" means a partnership, limited partnership, limited liability company, S corporation or any other form of unincorporated enterprise, owned by one or more persons.

(3) "Board of Appeals" means the Board created by and constituted as provided for in Section 191.15.

(4) "Business" means an 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, including but not limited to the renting or leasing of property, real, personal or mixed.

(5) "Corporation" means a corporation of 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.

(6) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

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

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

(9) "Estimated tax liability" means the amount that a taxpayer estimates to be the taxpayer's liability for the income taxes levied in this chapter for a year prior to applying any credits, estimated tax payments, or withheld taxes for the year.

(10) "Finance Director" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Department or the person executing the duties of the Finance Director, and sometimes referred to as the Tax Administrator.

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

(12) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code, and verified by the attachment of Schedule A.

(13) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

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

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

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

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

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

(19) "Joint Economic Development District" means districts created under the Ohio Revised Code Sections 715.70 through 715.83 as amended from time to time.

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

(21) "Municipality" means the City of Galion, Ohio.

(22) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual; means the individual's profit, other than amounts described in Division (h) of Section 191.03, 191.03.1 and 191.03.2, required to be reported on Schedule C, Schedule E, or Schedule F.

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

(24) "Nonresident" means an individual domiciled outside the Municipality.

(25) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.

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

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

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

(29) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

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

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

(32) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse, or other space, which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

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

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

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

(36) "Resident" means an individual domiciled in the Municipality.

(37) "Resident incorporated business entity" means an incorporated business entity whose office, place or operations or business site is within the Municipality.

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

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

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

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

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

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

(44) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

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

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

(47) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.

(b) The singular shall include the plural, the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

(Ord. 2003-103. Passed 11-25-03.)

191.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 191.15, an annual tax for the purposes specified in 191.01 shall be imposed on and after January 1, 1979, at the rate of one per cent (1%) per annum upon the following:

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

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

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

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

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

(6) On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

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

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

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

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

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

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

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

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

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

(c) As used in Division (b) (1) C of this Section, "sales made in a municipal corporation" means:

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

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

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

(d) Net Operating Loss (NOL).

(1) The municipality does not allow a net operating loss carryback or carryforward.

(2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

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

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

(f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of Three Hundred Dollars (\$300.00) 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 properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where 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 Three Hundred Dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the 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 Three Hundred Dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

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

(7) Nonresidents are subject to such taxation only if the real property is situated within the city. Nonresidents, in determining whether gross monthly rentals exceed Three Hundred Dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Alimony.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends from intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

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

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

(14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed One Thousand Dollars (\$1,000.00) annually. Such compensation in excess of One Thousand Dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

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

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

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

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

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

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in Division (f)(17) of this section, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits 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, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

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

(Ord. 2003-103. Passed 11-25-03.)

191.03.1 IMPOSITION OF ADDITIONAL THIRTY-NINE HUNDREDTHS OF ONE PERCENT TAX.

(a) Subject to the provisions of Section 191.15 and in addition to the tax or taxes imposed by Section 191.03 and any other provisions of this chapter, an additional annual tax shall be imposed on and after October 1, 1989 at the rate of thirty-nine one hundredths (39/100) of one per cent (1%) per annum upon the following:

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

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

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

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

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

(6) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

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

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

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

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

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

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

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

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

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

(c) As used in Division (b) (1) C of this Section, "sales made in a municipal corporation" means:

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

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

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

(d) Net Operating Loss (NOL).

(1) The municipality does not allow a net operating loss carryback or carryforward.

(2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

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

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

(f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of Three Hundred Dollars (\$300.00) 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 properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where 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 Three Hundred Dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the 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 Three Hundred Dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

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

(7) Nonresidents are subject to such taxation only if the real property is situated within the city. Nonresidents, in determining whether gross monthly rentals exceed Three Hundred Dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Alimony.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends from intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

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

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

(14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed One Thousand Dollars (\$1,000.00) annually. Such compensation in excess of One Thousand Dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

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

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

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

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

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

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in Division (f)(17) of this section, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits 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, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

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

(Ord. 2003-103. Passed 11-25-03.)

191.03.2 IMPOSITION OF ADDITIONAL ELEVEN HUNDREDTHS OF ONE PERCENT TAX.

(a) Subject to the provisions of Section 191.15, and in addition to the tax or taxes imposed by Section 191.03 and 191.03.1 and any other provisions of this chapter, an additional annual tax shall be imposed on and after January 1, 1996 at the rate of eleven one hundredths (11/100) of one per cent (1%) per annum upon the following:

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

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

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

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

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

(6) On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

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

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

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

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

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

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

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

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

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

(c) As used in Division (b) (1) C of this Section, "sales made in a municipal corporation" means:

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

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

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

(d) Net Operating Loss (NOL).

(1) The municipality does not allow a net operating loss carryback or carryforward.

(2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

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

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

(f) **Rentals from Real Property.** Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of Three Hundred Dollars (\$300.00) 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 properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where 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 Three Hundred Dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the 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 Three Hundred Dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds Three Hundred Dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

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

(7) Nonresidents are subject to such taxation only if the real property is situated within the city. Nonresidents, in determining whether gross monthly rentals exceed Three Hundred Dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedents estate during the period of administration (except such income from the operation of a business).

- (5) Alimony.
- (6) Compensation for damage to property by way of insurance or otherwise.
- (7) Interest and dividends from intangible property.
- (8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
- (9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (12) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
- (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
- (14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed One Thousand Dollars (\$1,000.00) annually. Such compensation in excess of One Thousand Dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

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

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

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

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

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

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in Division (f)(17) of this section, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits 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, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

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

(Ord. 2003-103. Passed 11-25-03.)

191.03.3 IMPOSITION OF ADDITIONAL ONE-HALF PERCENT (1/2%) TAX.

(a) Subject to the provisions of Section 191.13, and in addition to the tax or taxes imposed by Section 191.03, 191.03.1, 191.03.2 and any other provisions of this chapter, an additional annual tax shall be imposed on and after July 1, 2006 at the rate of one-half per cent (1/2%) per annum upon the following:

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

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

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

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

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

(6) On all income received as gambling winnings as reported on IRS Form W- 2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.

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

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

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

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

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

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

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

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

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

(c) As used in subsection (b)(1)C. hereof, "sales made in a municipal corporation" means:

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

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

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

(d) Net Operating Loss (NOL).

(1) The municipality does not allow a net operating loss carryback or carryforward.

(2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

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

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

(f) Rentals from Real Property. Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which rentals are derived, whether so rented, managed or operated by the taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(1) Where the gross monthly rentals of any real properties, regardless of number and value aggregates in excess of three hundred dollars (\$300.00) 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 properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity where 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 three hundred dollars (\$300.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the 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 three hundred dollars (\$300.00) per month; and provided further that the person who operates a rooming house of five or more rented rooms shall be considered in business whether or not the gross income exceeds three hundred dollars (\$300.00) per month.

(2) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.

(3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.

(4) Real property, as the term is used in this chapter, shall include commercial, residential, farm property and any and all other types of real estate.

(5) In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal tax purposes.

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

(7) Nonresidents are subject to such taxation only if the real property is situated within the City. Nonresidents, in determining whether gross monthly rentals exceed three hundred dollars (\$300.00) shall take into consideration only real estate situated within the City.

(8) To be considered nontaxable as ground rentals, the property must be under perpetual leasehold by the term of which the lessor performs no services of any type, including taxes on the property.

(9) Corporations owning or managing real estate are taxable only on that portion of income derived from property located in the City.

(10) A taxpayer may aggregate rentals for a net rental income, but no net loss may be taken against other income nor may it be carried either forward or backward.

(11) The residents of the City are subject to taxation upon net income from rentals (to the extent above specified) on all properties located in the City, and/or on all properties located outside the City, with credit being given for income tax or taxes paid to other municipalities on rental profits on properties in those municipalities, but with said credit not to exceed the total rate levied in this chapter. Non-residents of the City are subject to such taxation only if the real property is situated within the City.

(g) In no case may a taxpayer deduct business losses or rental losses against wages or other compensation earned as an employee.

(h) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

(3) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(4) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(5) Alimony.

(6) Compensation for damage to property by way of insurance or otherwise.

(7) Interest and dividends from intangible property.

(8) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).

(9) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Section 718.01 of the Ohio Revised Code to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(10) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

(11) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.

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

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

(14) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subject to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

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

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

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

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

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

- A. The income of an electric company or combined company;
- B. The income of a telephone company.

As used in Division (h)(17) hereof, "combined company," "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits 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, to the extent such distributive share would not be allocated or apportioned to this state under Division (b)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

(19) Earnings and income of all persons under eighteen (18) years of age whether residents or nonresidents.

(20) Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.
(Ord. 2005-98. Passed 11-22-05.)

191.04 EFFECTIVE PERIOD.

(a) The income tax imposed by Section 191.03 shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation described therein earned or received on and after January 1, 1979, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1979. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(b) The income tax imposed by Section 191.03.1 shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation described therein earned or received on and after October 1, 1989, and with respect to the net profits of businesses, professions or other activities earned on and after October 1, 1989. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(c) The income tax imposed by Section 191.03.2 shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation described therein earned or received on and after January 1, 1996, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1996. Such tax shall continue for an indefinite period and until the same shall be amended or repealed.

(d) The income tax imposed by Section 191.03.3 shall be levied, collected and paid with respect to the qualifying wages, commissions, net profits, other compensation and other taxable income described therein earned or received on and after July 1, 2006, and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 2006. Such tax shall continue for a period of five (5) years commencing July 1, 2006. (Ord. 2005-98. Passed 11-22-05.)

191.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 15th of each year for the previous year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Finance Director is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Finance Director may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Chapter, is such qualifying wages, commissions, other compensation, and other taxable income.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(c) The return shall be filed with the Finance Director on a form or forms furnished by or obtainable upon request from the Finance Director; or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with all provisions of this Chapter and all applicable rules and regulations governing the filing of returns.

(d) The return shall set forth:

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

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

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

(e) An extension for the filing of a Municipal Income Tax Return may be granted providing:

(1) The taxpayer has requested a an extension for filing a federal income tax return, and files a copy of such extension request with the Municipality's Income Tax Department. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

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

- A. Fails to timely file the request; or
- B. Fails to file a copy of the federal extension request; or
- C. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
- D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

(3) The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 191.10. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of this Chapter have been met. Any extension by the Finance Director shall be granted upon the condition that declaration filing and payment requirements have been filled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(f) Payments with Returns.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Finance Director the amount of taxes shown as due. However, credit shall be allowed for:

- A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section 191.06; and
- B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section 191.07; and
- C. Credit to the extent allowed by Section 191.14 for tax paid to another municipality.

(2) Subject to the limitations contained in Section 191.14 of this Chapter, any taxpayer who has overpaid the amount of tax to which the Municipality 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.

(g) Amended Returns.

(1) Where necessary, an amended return shall be filed in order to report additional income, and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 191.05 and 191.10. The Finance Director shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay an additional tax shown due thereon or make claim for refund of any overpayment.

(h) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Chapter. Provided, however, that the taxpayer shall have ten (10) days after notification by the Finance Director, or his authorized representative, to file the items required by this paragraph. (Ord. 2003-105. Passed 11-25-03.)

191.06 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rates provided in Sections 191.03, 191.03.1 and 191.03.2 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the fifteenth (15th) day of the month following such withholding make a return and pay to the Finance Director the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Finance Director and shall be subject to the Rules and Regulations prescribed by the Finance Director. 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) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

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

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

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

(e) So long as the taxes withheld by an employer for the Municipality during the measurement period are less than Three Hundred Dollars (\$300.00) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Finance Director. The Finance Director may revoke the approval of quarterly filing and payments whenever the Finance Director has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this Section.

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

(g) Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section 191.12 hereof. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

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

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

(j) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
(Ord. 2003-105. Passed 11-25-03.)

191.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income over \$6,700.00 which is not subject to Section 191.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Sections 191.03, 191.03.1 and 191.03.2, 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. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 191.06, such person need not file a declaration.

(b) Dates for Filing.

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

(2) 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.

(c) Forms: Credit for Tax Withheld or Paid Another Community.

(1) Such declaration shall be filed upon a form furnished by or obtainable from the Finance Director or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.14, credit may be taken for tax to be withheld and remitted to another taxing municipality.

(2) 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.

(3) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

(4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality 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 fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) On and after July 1, 2003, and notwithstanding any other provision in this section, a taxpayer who is an individual must remit payment of estimated taxes as follows:

(1) Not more than twenty-two and one-half per cent (22 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before April 15;

(2) Not more than forty-five per cent (45%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before July 31;

(3) Not more than sixty-seven and one-half per cent (67 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 31st day of October; and

(4) Not more than ninety per cent (90%) of the taxpayer's estimated tax liability for the previous year shall be required to be remitted on or before the 31st day of January.

Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates described above.

(e) On and after January 1, 2003, and notwithstanding any other provision in this section a taxpayer that is not an individual shall remit payments of estimated taxes according to the following:

(1) Not more than twenty-two and one-half per cent (22 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before April 15 or, in the case of a fiscal year taxpayer, the 15th day of the fourth month of the taxpayer's taxable year;

(2) Not more than forty-five per cent (45%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of June or, in the case of a fiscal year taxpayer, the 15th day of the sixth month of the taxpayer's taxable year;

(3) Not more than sixty-seven and one-half per cent (67 1/2%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of September or, in the case of a fiscal year taxpayer, the 15th day of the ninth month of the taxpayer's taxable year; and

(4) Not more than ninety per cent (90%) of the taxpayer's estimated tax liability for the current year shall be required to be remitted on or before the 15th day of December or, in the case of a fiscal year taxpayer, the 15th day of the twelfth month of the taxpayer's taxable year.

(f) Amended Declaration.

(1) A declaration may be amended at any time.

(2) In the event that 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.

(g) Annual Return Required. On or before the fifteenth (15th) day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 191.05.
(Ord. 2003-105. Passed 11-25-03.)

191.08 FINANCE DIRECTOR DUTIES; PERSONNEL.

(a) It shall be the duty of the Finance Director:

(1) to collect and receive the tax imposed by this Chapter in the manner prescribed therein, to keep an accurate record thereof, and to report all monies so received, and

(2) to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of seven (7) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.

(b) (1) The Finance Director shall prescribe the form and method of accounts and reports to be rendered to his office and shall maintain accurate records showing the amount received from each taxpayer and the date of such receipt.

(2) The Finance Director shall make a written report to Council each quarter of all moneys collected hereunder during the preceding quarter.

(3) It shall be the duty of the Finance Director to demand and receive all taxes due the City.

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

(d) The Finance Director shall have the power to compromise any liability imposed by this Tax Code.

(e) Upon the demonstration and documentation of good cause, the Finance Director shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter. (Ord. 2003-105. Passed 11-25-03.)

191.09 INVESTIGATIVE POWERS OF FINANCE DIRECTOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

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

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

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

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of seven (7) years from the date his return is filed or the taxes required to be withheld are paid.

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

(f) Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months, or both.

(g) In addition to the above penalty, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal. (Ord. 2003-103. Passed 11-25-03.)

191.10 INTEREST AND PENALTIES.

(a) All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Chapter and remaining unpaid three (3) days after they become due shall bear interest at the rate of one and one-half per cent (1½%) per month or fraction thereof.

(b) In addition to interest as provided in Division (a) hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:

(1) For failure to pay taxes due, other than taxes withheld, one and one-half per cent (1 1/2%) per month or fraction thereof.

(2) For failure to remit taxes withheld or required to be withheld from employees: five per cent (5%) of the unpaid withholding if paid during the first month after same becomes due, ten per cent (10%) of the unpaid withholding if paid during the second or third months after the same becomes due and fifteen per cent (15%) of the unpaid withholding if paid more than three months after the same becomes due.

(3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, Twenty-five Dollars (\$25.00).

(4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety per cent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten per cent (10%) of the difference between ninety per cent (90%) of the actual tax for the year and the amount paid through withholding and declaration.

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

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Finance Director when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Finance Director; and provided further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability. (Ord. 2003-105. Passed 11-25-03.)

191.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. 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 Finance Director shall be extended one (1) year from the time of the final determination of the federal tax liability.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

(c) After the time period allowed for a refund of the tax or withholding paid to another municipality, a nonrefundable credit shall be allowed against tax or withholding erroneously paid or withheld to another municipality equal to the tax or withholding paid with respect to such income or wages.

(1) If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in Division (c) above shall be calculated using the tax rate in effect.

(2) Nothing in this section permits any credit carryforward.

(d) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Section 5703.47 of the Ohio Revised Code.

(e) Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.

(Ord. 2003-103. Passed 11-25-03.)

191.12 VIOLATIONS AND PENALTIES.

(a) Any person who shall:

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

(2) Knowingly make an incomplete, false or fraudulent return; or

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

(4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Finance Director; or

(5) Refuse to permit the Finance Director or any duly authorized agent or employee to examine his or her employer books, records, papers, or federal income tax returns; or

(6) Fail to appear before the Finance Director and to produce his or her employer's books, records, papers or federal income tax returns upon order or subpoena of the Finance Director; or

(7) Refuse to disclose to the Finance Director any information with respect to such person's or such person's employer's income or net profits; or

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

(9) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Finance Director false information; or

(10) Fail to comply with the provisions of this Chapter or any order or subpoena of the Finance Director; or

(11) Fail or refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 191.07; or

(12) Fail to cause the tax withheld from qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of Section 191.06; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter, for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than One Hundred Dollars (\$100.00); on a second offense within two (2) years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense; on each subsequent tax code violation within two (2) years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

(b) All prosecutions under this section shall be commenced within three (3) years from the time of the offense complained of; except in the case of failure to file a return, failure to pay taxes due, or in the case of fraud, in which event the limitations of time within which prosecution shall be commenced shall be six (6) years after the commission of the offense.

(c) 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.

(d) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 191.01, include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 2003-103. Passed 11-25-03.)

191.13 ALLOCATION OF FUNDS.

(a) The funds collected under the provisions of Section 191.03 of this Chapter shall be deposited in the General Fund.

(b) The funds collected under the provisions of Section 191.03.1 of this Chapter shall be deposited in a special fund entitled "Galion Economic Recovery Fund A" to be used exclusively for some or all of the following purposes:

- (1) Ambulance subsidy.
- (2) Increased police protection services.
- (3) Increased fire protection services.
- (4) Fire suppression equipment and structures.

(c) The funds collected under the provisions of Section 191.03.2 of this Chapter shall be deposited in a special General Fund account entitled "Recreation Fund Account" which shall be used exclusively for recreation and acquisition of real estate.

(d) The funds collected under the provisions of Section 191.03.3 of this Chapter shall be deposited in the Police, Fire and Emergency Medical Services Fund, which shall be used exclusively for police, fire and emergency medical services.

(Ord. 2005-98. Passed 11-22-05.)

191.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Except as provided in Division (b) hereof, where a resident of the Municipality is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the other income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it appears that he has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit of one per cent (1%) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) On and after January 1, 2003, the owner of a pass-through entity that are domiciled in the City shall be allowed a credit for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the City, with the amount of such credit being equal to the lesser of the following amounts:

(1) The amount, if any, of tax paid by the pass-through entity to another municipal corporation in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity; or

(2) The amount of tax that would be imposed on the pass-through entity by the City if the pass-through entity conducted business in the City, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership of all owners of the entity.

(d) A claim for refund or credit under this Section shall be made in such manner as the Finance Director may by regulation provide.
(Ord. 2003-103. Passed 11-25-03.)

191.15 BOARD OF REVIEW.

(a) A Board of Review, consisting of three (3) electors of the City of Galion, one being appointed by the City Manager, one being appointed by the Finance Director, and the third to be selected by the two so appointed, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

(b) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

(c) All hearings of the Board of Review shall be conducted privately and the provisions of Section 191.09 (d) of this chapter with reference to the confidential nature of tax information obtained under this chapter shall apply to such matters as may be heard before the Board of Review on appeal.

(d) Whenever the Tax Administrator issues a decision regarding an income tax obligation subject to appeal as provided in this section, the Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and the manner in which such appeal may be pursued.

(e) Any person who is dissatisfied by a decision of the Tax Administrator and who has filed the required returns or other documents pertaining to the tax obligation at issue may appeal the decision to the Board of Review. The appeal shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator issues such decision.

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

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

(h) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.
(Ord. 2001-75. Passed 11-13-01.)

191.16 SEPARABILITY.

This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or 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 of the Municipality that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein.

(Ord. 2003-105. Passed 11-25-03.)

191.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

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

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 191.06 and 191.07 as though the same were continuing.
(Ord. 2001-75. Passed 11-13-01.)