

CHAPTER 191  
Income Tax

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191.01 PURPOSE.

To provide funds for Municipal purposes, there is hereby levied a tax on qualifying wages, commissions and other compensation, and on net profits and other taxable income as provided in this chapter.  
(Ord. 2006-34-F. Passed 10-17-06.)

191.02 DEFINITIONS.

(a) As used in this chapter the following words shall have the meanings 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, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.

(2) "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one (1) or more persons.

(3) "Board of Review" means the Board created by and constituted as provided for in Section 191.13.

(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 or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

(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 services 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 profit, and including the officers and resident managers, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

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

(10) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(11) "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.

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

(13) "Income from a pass-through entity" means partnership income of partners, membership interest 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.

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

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

(16) "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.

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

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

(19) "Municipality" means the Village of Greenhills, Ohio.

(20) "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 Section 191.03(f), required to be reported on Schedule C, Schedule E, or Schedule F.

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

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

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

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

(25) "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.

(26) "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.

(27) "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.

(28) "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.

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

(30) "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 employees regularly in attendance.

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

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

(33) "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.

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

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

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

(37) "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.

(38) "Rules and Regulations" means the Rules and Regulations as prescribed by the Tax Commissioner.

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

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

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

(42) "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.

(43) "Tax Commissioner" means the Tax Commissioner of the Municipality or the person executing the duties of the Commissioner including the Finance Director.

(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 calendar year or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(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. 2006-34-F. Passed 10-17-06.)

### 191.03 IMPOSITION OF TAX.

(a) Basis of Imposition. Subject to provisions of Section 191.17, an annual tax, for the purposes specified in Section 191.01 is hereby levied after December 31, 2005 at the rate of one and one-half percent (1.5%) per year on 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 during the effective period of this chapter by all resident unincorporated businesses, professions or other activities, derived from sales made, work done or services performed or rendered, and business or other activities conducted in the Municipality.

(4) On a resident partner's or owner's share of the net profits earned during the effective period of this chapter or a resident association or other unincorporated entity not attributable to the Municipality, and not levied against such association or other unincorporated entity.

(5) On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, 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 person, unincorporated business entity, profession or other entity has an office or place of business in the Municipality.

(6) On a resident partner's or owner's share of the net profits earned during the effective period of this chapter or a nonresident association or other unincorporated entity not attributable to the Municipality, and not levied against such association or other unincorporated entity.

(7) On the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done or services performed or rendered, whether or not such corporations have an office or place of business in the Municipality.

(8) On all income received as gambling winnings as reported on Internal Revenue Service 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) **Business 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) 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 formula to be determined by:

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

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

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

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

D. Adding together the percentages determined in accordance with subsections (b)(1)A.,B.,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 business apportionment percentage formula provided for herein, the Board of Review or the Tax Commissioner, upon application of the taxpayer, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) Net Operating Loss (NOL) Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year, beginning with April 1, 1970, apportioned to the Municipality may be applied against the portion of the profit of succeeding taxable years apportioned to the Municipality, until exhausted, but in no event for more than three (3) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(3) The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.

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

(5) The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in subsection (c)(1). However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(d) Consolidated Returns.

(1) Filing consolidated returns, providing they clearly show the income and expenses attributable to the Municipality alone, may be permitted, required, or denied in accordance with the Rules and Regulations prescribed by the Tax Commissioner.

(2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he believes necessary to ascertain whether net profits are properly allocated to the Municipality. If the Tax Commissioner finds net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Municipality.

(e) Exceptions. The provisions of the chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, pensions, 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 (Ohio Revised Code 718.01).

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

(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 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected 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 headquarter 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 subsection (e)(17) hereof, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(18) 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. 2006-34-F. Passed 10-17-06.)

#### 191.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the income, qualifying wages, commissions and other compensation, earned and shall be levied with respect to the net profits of the persons, businesses, professions, or

other activities earned or received from and after the effective date of this Tax Code.

(Ord. 2006-34-F. Passed 10-17-06.)

#### 191.05 RETURN AND PAYMENT OF TAX.

(a) Dates and Exemptions. Each person who engages in business or other activity or whose qualifying wage, commissions, other compensation, and other taxable income is subject to the tax imposed by this Tax Code, shall, whether or not a tax be due thereon, make and file a return with the Tax Commissioner on or before April 15 of the year following the effective date of this Tax Code, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Tax Commissioner 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 salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Commissioner may be accepted as the return required of any employee whose sole income, subject to tax under this Tax Code, is such qualifying wage, 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 Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner; 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 the Tax Code governing the filing of returns.

(d) The return shall set forth:

(1) The aggregate amounts of qualifying wages, commissions, and other compensation earned, received, 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 such tax; and

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

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

(4) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to this Municipality alone.

(e) Extensions.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal income tax return by filing a copy of the taxpayer's federal filing extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal income tax return in writing. 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 Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:

- A. Fails to timely file the request; or
- B. Fails to file a copy of the federal extension request, (if applicable);  
or
- C. Owes the Municipality any delinquent income tax, penalty, interest, assessment 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 income 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 the Tax Code have been met. Any extension by the Tax Commissioner shall be granted upon the

condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(f) Payment with Returns.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner 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 191.15 for tax paid to another municipality.

(2) A 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.  
(Ord. 2006-34-F. Passed 10-17-06.)

(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 Sections 191.11 and 191.15. Such amended returns shall be on a form acceptable to the taxing authority. A taxpayer may not change the method of accounting or apportionment of net profits nor the method of filing (i.e. single or consolidated) after the due date for filing the original return.  
(Ord. 2011-20-F. Passed 7-5-11.)

(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 any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 2006-34-F. Passed 10-17-06.)

#### 191.06 COLLECTION OF TAX AT THE 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 or set aside, the tax of one and one-half percent (1.5%) on the qualifying wages, due by such employer to each such employee, and shall, on or before the last day of April, July, October and January of each year, after the effective date of this section make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding calendar quarter. Payment by electronic funds transfer may be made to the Tax Commissioner. The Municipality shall adopt Regulations governing the payment of withheld taxes by electronic funds transfer. The Regulations shall govern acceptable modes of electronic funds transfer, the content and format of electronic funds transfers, the coordination of payment by electronic funds transfer and the filing of associated tax reports and returns, and any other matter that facilitates payment by electronic funds transfer. Upon the written request of a taxpayer, the Tax Commissioner shall implement means of acknowledging receipt of payments made by electronic funds transfer.

(1) Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

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

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

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

(d) 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.

(e) Corporate Officers' Personal Liability. 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 the responsibility of filing the return and making payment are jointly and severally 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.

(f) 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.

(g) 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.

(h) 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. 2006-34-F. Passed 10-17-06.)

#### 191.07 DECLARATIONS.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 191.06, or who engages in any business, profession, enterprise or activity resulting in income subject to the tax imposed by this chapter, 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 held and remitted to this Municipality in accordance with Section 191.06, such person need not file a declaration.

(b) Dates for Filing.

(1) After January 1, 2004, such declaration shall be filed on or before April 15 of such calendar year; or within four (4) months after either the start of the taxpayer's fiscal year or when he first becomes subject to the provisions of this section, whichever is later.

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

(1) The declaration shall be filed on a form furnished by, or obtainable from the Tax Commissioner, on an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. Credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality in accordance with Section 191.15.

(2) A declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least the following percentages of the estimated tax, less credit for taxes withheld or paid to another municipality, and at least a similar amount shall be paid on or before the fifteenth (15th) day of the fourth (4th) month and the last day of the month following each calendar quarter thereafter: for each year after 1970 one-fourth (1/4).

(d) 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.

(e) Annual Return Required. On or before the fifteenth (15th) day of the fourth month following the end 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. 2006-34-F. Passed 10-17-06.)

#### 191.08 APPOINTMENT AND DUTIES OF TAX COMMISSIONER.

(a) (1) There is hereby created a Department to be known as the Income Tax Division. Such Division shall be administered by a person appointed by the Municipal Manager who shall be titled "Tax Commissioner".

(2) This section authorizes the Tax Commissioner, under the advice and consent of the Municipal Manager, to promulgate Rules and Regulations.

(3) It is the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed therein, and to keep an accurate record thereof, and to report all monies so received.

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

(b) The Tax Commissioner is hereby charged with the enforcement of the provisions of this chapter, including the interpretation and enforcement of the Rules and Regulations as prescribed by the Tax Commissioner, and is hereby empowered to enforce the Ordinance and the Rules and Regulations authorized or required by this chapter, relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner 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) Upon the demonstration and documentation of good cause, the Tax Commissioner shall have the power to compromise penalty and interest liabilities imposed by this chapter, consistent with this chapter and the Rules and Regulations. In no case shall the Tax Commissioner possess the authority to abate or compromise a tax liability.

(e) It shall be the duty of the Tax Commissioner to monitor the application of this chapter, and to report to both the Board of Review and Council any recommendations for additions, deletions, or adjustments.

(f) The Tax Commissioner is hereby authorized, subject to the approval by the Municipal Manager, to employ an Assistant and other such administrative and clerical help as are needed for the Income Tax Bureau, and to establish wages as set by Council.

(Ord. 2006-34-F. Passed 10-17-06.)

#### 191.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

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

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

(c) The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or

subpoena of the Tax Commissioner 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 six (6) years from the date his return is filed or the taxes required to be withheld are paid.

(e) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential and no disclosure thereof shall be made except to municipal, County, State or Federal taxing agencies, or, except for official purposes, or except in accordance with proper judicial order. In addition to the penalty provided in Section 191.12, 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.

(f) Any person divulging such information in violation of this section shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months, or both, for each offense.

(g) Notwithstanding any termination of the tax imposed by this chapter, the Tax Commissioner or the individual appointed to complete his duties shall have all of the powers given the Tax Commissioner in subsections (a), (b) and (c) hereof during the period in which this chapter was in effect against any person or entity which has not fully satisfied his or its tax liability under the provisions of this chapter.

(Ord. 2006-34-F. Passed 10-17-06.)

#### 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, remaining unpaid after they become due, shall bear interest at the rate of one-half of one percent (1/2%) per month.

(Ord. 2006-34-F. Passed 10-17-06.)

(b) In addition to interest as provided in subsection (a) hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:

(1) In the case of taxpayers failing to pay the full amount of tax due, a penalty of six percent (6%) per annum.

(2) In the case of employers failing to withhold and remit taxes to the Tax Commissioner the taxes to be withheld from employees, a penalty of twelve percent (12%) per month, or fraction thereof.  
(Ord. 2011-20-F. Passed 7-5-11.)

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further that, 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.

(d) Filings, including requests for extensions, must be received in the office of the Tax Commissioner by the due date.

(e) Upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.  
(Ord. 2006-34-F. Passed 10-17-06.)

#### 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 of payment of any tax due hereunder; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported or 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 Tax Commissioner 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) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, except that if any overpayment 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 Ohio Revised Code 5703.47. (Ord. 2006-34-F. Passed 10-17-06.)

#### 191.12 VIOLATIONS AND PENALTIES.

(a) No person shall:

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

(2) 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 Tax Commissioner; or

(5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers, or federal income tax returns upon order or subpoena of the Tax Commissioner; or

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

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

(8) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Commissioner; or

(9) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by Section 191.07; or

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

(b) If any business violates this section, any employee of said business having control or supervision of or charged with the responsibility of complying with this section, or any owner, director, officer, manager, member or trustee who is responsible for the execution of the business' fiscal responsibilities pursuant to

this section, shall also be personally liable for the violation and subject to the penalty provided herein.

(c) Statute of Limitations; Interest on Late Refunds.

(1) Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(2) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

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

(e) The term "person" as used in this section shall, in addition to the meaning prescribed in Section 191.02, 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.

(f) Whosoever violates any provision of this chapter shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both.

(Ord. 2006-34-F. Passed 10-17-06.)

191.13 BOARD OF REVIEW.

(a) A Board of Review consisting of three (3) members, each of whom shall be appointed by the Mayor, with the consent of Council is created as provided for in Section 6.05 of the Greenhills Charter. Board members shall receive such compensation as Council determines.

(b) A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing, and the provisions of Section 121.22 of the Ohio Revised Code and Section 191.09 of the Municipal Income Tax Ordinance hereof with reference to the confidential

character of information required to be disclosed by the chapter shall apply to such matters as may be heard before the Board on appeal.

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

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

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

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

(g) The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision. The taxpayer or the Tax Commissioner may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(Ord. 2006-34-F. Passed 10-17-06.)

#### 191.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the General Fund, and the funds shall be disbursed in the following order:

(a) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions hereof.

(b) Balance of Municipal income taxes to remain in the General Fund to defray operating expenses of the Municipality.  
(Ord. 2006-34-F. Passed 10-17-06.)

#### 191.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Every individual taxpayer who resides in the Municipality and who receives salaries, wages, commissions or other compensation or net profits from sales made, work done or services performed or rendered outside the Municipality, if it is made to appear that he has paid a municipal income tax on such income, taxable under this chapter, to another municipality, shall be allowed a credit against the tax imposed by this chapter in the amount of the tax so paid by him or on his behalf to such other municipality, not to exceed one-half of one percent (1/2%).

(b) Notwithstanding, the provisions contained in Section 191.11, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may by regulations provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless the taxpayer furnishes to the Tax Commissioner evidence from his employer showing the tax withheld from such taxpayer's wages, salaries or commissions for other municipalities.

(Ord. 2006-34-F. Passed 10-17-06.)

#### 191.16 INFORMATION BY LANDLORDS.

(a) Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.

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

(c) As used herein, the term "rental property" includes houses, apartments, rooms, stores and any other real property rented, leased or demised to a tenant or lessee.

(d) Violation of this section shall be an offense punishable by a fine of not more than one hundred dollars (\$100.00). (Ord. 2006-34-F. Passed 10-17-06.)

#### 191.17 SAVING CLAUSE.

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. 2006-34-F. Passed 10-17-06.)