

TITLE NINE - Taxation

Chap. 185. Income Tax.
Chap. 187. Motor Vehicle License Tax.
Chap. 189. Lodging Tax.

CHAPTER 185 Income Tax

| | |
|--|---|
| <p>185.01 Purpose. 185.02 Definitions. 185.03 Imposition of tax. 185.04 Effective period. 185.05 Annual return and payment of tax. 185.06 Collection at source; withholding by employer. 185.07 Declarations. 185.08 Duties of the Administrator. 185.09 Investigative powers of the Administrator; penalty for divulging confidential information. 185.10 Interest and civil penalties.</p> | <p>185.11 Collection of unpaid taxes, civil litigation; criminal prosecution; statute of limitations; refunds of overpayments. 185.12 Board of Review. 185.13 Relief provisions; credit for tax paid to another municipal corporation. 185.14 Collection of tax after termination of chapter. 185.15 Allocation of funds. 185.16 Separability. 185.99 Violations; penalty.</p> |
|--|---|

CROSS REFERENCES

Annual tax budget - see CHTR. §6.02, 6.03
Tax levies - see CHTR. §6.04
Tax anticipation notes - see CHTR. §9.04
Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
State income tax - see Ohio R.C. Ch. 5747
Division of Income Taxation - see ADM. Ch. 137

185.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and permanent improvements of the City, there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profit as hereinafter provided.
(Ord. 2006-5. Passed 3-14-06.)

185.02 DEFINITIONS.

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.

- (a) "Administrator" means the individual designated by the provisions of this Chapter, appointed by the City Manager and approved by Council, to administer and enforce the provisions of this Chapter.
- (b) "Assignment" means the assignment made by a resident of the City of a claim for a refund due from another Taxing Municipality granting credit to nonresidents thereof.
- (c) "Association" means an unincorporated enterprise owned by two or more persons or in which two or more persons have a beneficial interest, other than a Pass-Through Entity.
- (d) "Board" means the Board of Review established by and constituted as provided in Section 185.12.
- (e) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit by any Person. "Business" conducted within the City includes the direct or indirect ownership of an interest in a pass-through entity that conducts business within the City.
- (f) "Chapter" means Chapter 185 of the Codified Ordinances of the City.
- (g) "City" means the City of Huron, Ohio.
- (h) "Code" means the Internal Revenue Code of 1986, as amended.
- (i) "Compensation" means wages, salary, commission and/or other types of compensation in the service of an employer and that is subject to withholding of Federal Income Tax, Social Security Tax, or Medicare Tax, whether paid to an individual in cash or in kind on an hourly, daily, weekly, monthly, annual, or other basis, including, but not limited to, the following: severance or termination pay; allowances; wage continuation payments made as a result of early retirement or employment termination; wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient's employer or by a third party; vacation or holiday pay; tips or gratuities received; group term insurance premiums paid on an employee's behalf to the extent included or includible on the employee's Form W-2; employee contributions to tax sheltered annuities, non-qualified pension plans, or into employer or third party trusts or pension plans as permitted by the Code, and that are or may be excludable from wages for Federal Income Tax purposes; employee contributions to "Cafeteria Plans" as permitted under Code Section 125 or 129 or similar plans and that are or may be excludable from wages for Federal Income Tax purposes; ordinary income portion of stock options or employee stock purchase plans; supplemental unemployment benefits (SUB Pay); strike pay; jury duty pay; employer or employee contributions or amounts credited to non-qualified pension plans or deferred compensation plans at the point of deferral and to the extent subject to Medicare Tax; working condition fringe benefits subject to Federal Income Tax; guardian executor, conservator, trustee, or administrator fees; bonuses; ordinary income portion of lump sum distributions that become subject to Federal Income Tax because the recipient did not roll over the distribution within the time prescribed by the Code. For taxable years beginning on or after January 1, 2004, "Compensation" of an employee means "Qualifying Wages," within the meaning of Ohio R.C. 718.03, including any amendments or successor provisions thereto.

- (j) "Corporation" means a corporation, S 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 or any entity treated as a corporation for Federal Income Tax purposes. The term "Corporation" does not include a Limited Liability Company that is treated as a partnership for Federal Income Tax purposes. For Taxable Years beginning on or after January 1, 2004, "Corporation" includes a "combined company," an "electric company" and a "telephone company," all as defined in Ohio R.C. 5727.01, including any amendments or successor provisions thereto.
- (k) "Employee" means one who works for compensation.
- (l) "Employer" means a person, governmental body, unit, agency or any other entity, whether or not organized for profit, who or that employs one or more persons.
- (m) "Fiduciary" means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, estate, or business.
- (n) "Fiscal year" means an accounting period of 12 months or less ending on any day other than December 31.
- (o) "Gross receipts" means the total income from any source whatsoever.
- (p) "Intangible income" means that income specified in Ohio R.C. 718.01(A)(5), including any amendments or successor provisions thereto, and includes any of the following types of income: 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 Ohio R.C. Chapter 5701, including any amendments or successor provisions thereto, 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.
- (q) "Limited liability company" means a limited liability company formed under Ohio R.C. Chapter 1705 or under the laws of any other state.
- (r) "Net profits" means a net gain from the operation of a business after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, or a system approved by the Administrator, without deduction of taxes imposed by this chapter and federal, state and other taxes on or based on income and, in the case of a pass-through entity, without deduction of salaries or other amounts paid to owners, and otherwise adjusted to the requirements of this chapter.

For taxable years beginning on or after January 1, 2004, "Net Profits" means, in the case of a corporation, the corporation's federal taxable income before net operating losses and special deductions as determined under the Code, adjusted as follows:

- (1) 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 business or assets held for the production of income.
- (2) Add an amount equal to five percent of intangible income deducted under Section 185.02(r)(1), but exclude that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Code.
- (3) 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 Code;

- (4) Deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Code. This deduction does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
- (6) 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 allowed as a deduction in the computation of federal taxable income.

For taxable years beginning on or after January 1, 2004, the Net Profits of a pass-through entity shall be computed as if the pass-through entity were a corporation, except: (i) 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 (ii) amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee 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. For taxable years beginning on or after January 1, 2004, "Net Profits" means, in the case of a sole proprietorship, the profit shown by the individual on Internal Revenue Service Schedule C, Schedule E, and/or Schedule F. Net profits shall be determined in accordance with (i) the accounting method used by the taxpayer for federal income tax purposes and (ii) the Code, Treasury Regulations, federal case law interpreting these authorities and administrative authorities promulgated by the Internal Revenue Service.

- (s) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Code.
- (t) "Nonresident" means an individual domiciled outside the City.
- (u) "Nonresident owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in a pass-through entity that conducts business in the City and a corporation that has a direct or indirect ownership interest in a pass-through entity that conducts business in the City.
- (v) "Ohio R.C." means the Ohio Revised Code; unless otherwise identified, the number following refers to a Section of the Ohio Revised Code.
- (w) "Owner" means an individual, partner, member or any other person having an ownership interest in a pass-through entity or an association.
- (x) "Pass-through entity" means a partnership, limited liability company that is treated as a partnership for Federal Income Tax purposes, or any other class of entity the income or profits from which are given pass-through treatment under the Code.
- (y) "Person" means every natural person, pass-through entity, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to a pass-through entity or association shall mean the responsible person within the meaning of Section 185.06(i).
- (z) "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space that is occupied and used by the Taxpayer in carrying on any business individually or through one or more agents or employees regularly in attendance.

- (aa) "Qualifying wages" means wages, as defined in Section 3121(a) of the Code, without regard to any wage limitations, adjusted in accordance with Ohio R.C. 718.03(A), including an amendments or successor provisions thereto, to (i) deduct any amount included in such wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Code (i.e. a cafeteria plan), (ii) add any amount not included in such wages for the taxable year solely because the employee was employed by the employer prior to April 1, 1986, (iii) add any amount not included in such wages if the amount is an employee contribution or deferral described in Section 401(k) or 457 of the Code, and (iv) add any amount that constitutes supplemental unemployment compensation benefits described in Section 3402(a)(2) of the Code and that was not included in such wages. Qualifying wages includes compensation attributable to a Nonqualified Deferred Compensation Plan or program described in Section 3121(v)(2)(C) of the Code and compensation from employment arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased under a stock option. Qualifying wages does not include compensation deferred before January 1, 2004, to the extent that such deferred compensation would not be treated as wages within the meaning of Section 3121(a) of the Code at the time such deferred compensation is paid or distributed.
- (bb) "Reciprocity credit" means the credit granted by a taxing municipality to its residents for income taxes paid to another taxing municipality.
- (cc) "Rental income" means income received by a taxpayer from the rental of real estate, which shall be included in the computation of net profits from a business only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business of the taxpayer, in whole or in part. Where the gross monthly rental of any and all real properties owned by a taxpayer, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business of such taxpayer, and the net income of such rental property shall be subject to the tax imposed by this chapter, provided that, in the case of commercial property, the taxpayer shall be considered engaged in a business when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the taxpayer shall be considered engaged in a business when that taxpayer shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds such two hundred fifty dollars (\$250.00) per month; and provided further that a licensed rooming house shall be considered a business, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.
- (dd) "Resident" means an individual domiciled in the City.
- (ee) "Resident owner" means an individual domiciled in the City who has an ownership interest in a pass-through entity.
- (ff) "S Corporation" mean a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Code for its taxable year.

- (gg) "State" means the State of Ohio.
- (hh) "Taxable income" means the income specified in Section 185.03(a) as subject to the tax imposed under this chapter.
- (ii) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits and other taxable income are to be computed under this chapter and, in the case of a return for a fractional part of a calendar year or fiscal year, the period for which such return is required to be made. The taxable year of an individual shall be the calendar year, unless the individual has received approval for and uses a different taxable year for federal income tax purposes.
- (jj) "Taxing municipality" means any Ohio municipal corporation, other than the City, levying a municipal income tax on taxable income.
- (kk) "Taxpayer" means a person, whether an individual, pass-through entity, or any corporation or other entity, required hereunder to file a return or pay tax pursuant to this chapter. 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.

As set forth in this chapter, the singular shall include the plural, and 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. 2006-5. Passed 3-14-06.)

185.03 IMPOSITION OF TAX.

(a) Tax to be Imposed on Certain Money. Subject to the provisions of Section 185.16, an annual tax for the purposes specified in Section 185.01 shall be imposed on and after February 1, 1970, at the rate of one percent (1%) per year upon the following:

- (1) On all compensation and on net profits from the operation of a business earned during the effective period of this chapter by a resident.
- (2) On all compensation and on net profits from the operation of a business earned during the effective period of this chapter by a nonresident for work done or services performed or rendered or the conduct of a business in the City, subject to the limitations provided in Ohio R.C. 718.011.
- (3) On a resident owner's distributive share of the net profits of a pass-through entity earned during the effective period of this chapter from business conducted by the pass-through entity regardless of where such business is conducted, subject to the relief and reciprocity provisions of Section 185.13.
- (4) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned during the effective period of this chapter from business conducted in the City, whether or not such pass-through entity has an office or place of business in the City.

- (5) On the portion attributable to the City of the net profits earned during the effective period of this chapter of a corporation, including for taxable years beginning on or after January 1, 2002, an "electric company" and a "combined company," as defined in Ohio R.C. 5727.01, and including for taxable years beginning on or after January 1, 2004, a "telephone company," as defined in Ohio R.C. 5727.01, derived from sales made, work done, services performed or rendered and business conducted in the City, whether or not such corporation, electric company, telephone company or combined company has an office or place of business in the City. The tax imposed by this Section 185.03(a)(7) of the net profits of an electric company, telephone company or a combined company shall be subject to and in accord with Ohio R.C. Chapter 5745.
- (6) On all income derived anywhere from gaming, wagering, lotteries, or schemes of chance by residents, and on all income derived from gaming, wagering, lotteries, or schemes of chance by nonresidents, when the income derived from gaming, wagering, lotteries, or schemes of chance is won or received from City sources.
- (7) On covenants not to compete and on cancellation of indebtedness to the extent includible on the taxpayer's Federal Income Tax return.

(b) The City income tax imposed by Section 185.03(a)(4) upon nonresident owners shall be collected and remitted pursuant to Section 185.06(n).

(c) Tax on Business Conducted Both in and Without the City. The portion of the net profits attributable to the City of a taxpayer conducting a business both in and without the boundaries of the City shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter. Pursuant to Ohio R.C. 718.02, net profits from a business conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City in the same proportion as the average ratio of:

- (1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business in the City 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 during the same period, wherever situated. 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.
- (2) Wages, salaries, and other taxable income paid during the taxable period to persons employed in the business for services performed in the City (including all qualifying wages subject to tax under Section 185.03(a)(2)) to wages, salaries, and other taxable income paid during the same period to persons employed in the business, wherever their services are performed, excluding compensation that is not taxable by the City under Ohio R.C. 718.011 and Section 185.03(f)(15).

- (3) Gross receipts of the business from sales made and services performed during the taxable period in the City to gross receipts of the business during the same period from sales and services, wherever made or performed. Sales of tangible personal property are considered made in the City when: (i) the tangible personal property is delivered within the City, regardless of where title passes, if such property is shipped or delivered from a stock of goods within the City; (ii) the tangible personal property is delivered within the City, regardless of where title passes, even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion; or (iii) the tangible personal property is shipped from a place within the City to purchasers outside the City, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

In the event an equitable result cannot be obtained under the apportionment formula provided for in this Section 185.03(c), the Administrator shall have the authority to substitute other factors or methods of apportionment calculated to produce an equitable result.

(d) Operating Loss Carry-Forward.

- (1) The portion of a net operating loss of a taxpayer sustained in any taxable year subsequent to February 1, 1970, and allocable to the City may be applied against the portion of the net profit of the taxpayer allocable to the City in succeeding years until exhausted, but in no event for more than five consecutive taxable years. No portion of a net operating loss shall be carried back against net profits of any prior taxable year.
- (2) The portion of a net operating loss allocable to the City shall be determined in the same manner as provided herein for allocating net profits to the City.
- (3) The Administrator shall provide, by rules and regulations, the manner in which such net operating loss carry-forward shall be determined.
- (4) Taxpayers whose primary source of income subject to City Income Tax is Compensation may not reduce their City Income Tax liability by combining losses from other sources of income with their income from compensation such taxpayers may carry forward losses from sources other than compensation in accordance with paragraph (1) of this subsection (c) to offset income from sources other than compensation in subsequent taxable years. Taxpayers who have net profits from a business and losses from another business may offset the gains from the profitable business(es) with the losses from the unprofitable business(es), subject to paragraph (1) of this subsection (d).
- (5) If a resident operates a business (including rental) in another taxing municipality in the State and the business incurs a loss, the amount of the loss allocated or apportioned to such taxing municipality may not be used to reduce the taxpayer's City income tax base.

(e) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator. On and after January 1, 2003, the Administrator shall accept for filing a consolidated return from an affiliated group of Corporations subject to the tax imposed by this chapter if the affiliated group file for the same taxable year a consolidated return for Federal Income Tax purposes pursuant to Section 1501 of the Code. Only corporations subject to the tax imposed by this chapter may be included in such consolidated return filed for the City. If an affiliated group of corporations subject to the tax imposed by this chapter properly files a consolidated return in accordance with this Section 185.03(e)(1) for any taxable year beginning on or after January 1, 2003, the affiliated group must file a consolidated return for each succeeding taxable year in which it files a consolidated return for Federal Income Tax purposes unless, on or before the due date (taking into account extensions of time properly granted) of the return for a taxable year, the affiliated group obtains the permission of the Administrator to cease filing a consolidated return for that taxable year.
- (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, or in case any person operates a division, branch, factory, office, laboratory, or activity within the City constituting only a portion of its total business, the Administrator shall require such additional information as the Administrator deems necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds the net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with a division, branch, factory, office, laboratory, or activity, or by some other method, the Administrator shall make an allocation of net profits to the City in such manner as the Administrator deems fair and reasonable in order to properly reflect the net profits of the corporation allocable to the City.

(f) Exemptions: Sources of Income Not Taxed. The tax provided for herein shall not be levied on the following:

- (1) Compensation of active members of the Armed Forces of the United States because of active duty service.
- (2) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (3) Poor relief, unemployment insurance benefits (except for supplemental unemployment benefits), old age pensions or similar payments paid as a result of retirement, including disability benefits received from local, state or federal governments or charitable, religious or educational organizations.

- (4) Proceeds of insurance paid by reason of the death of the insured, pensions, including industrial pensions, disability benefits paid for total and permanent disability, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (5) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from Federal Income Tax.
- (6) Alimony received.
- (7) Personal earnings of any natural person under eighteen years of age.
- (8) Amounts received for personal injuries or for damages to property by way of insurance or otherwise; however, this exclusion does not apply to amounts paid for lost compensation.
- (9) Interest, dividends, gains and other revenue from intangible property, except as defined in the computation of net profits under Section 185.02(r). Intangible property includes, but is not limited to, investments, deposits, money or credits, as those terms are defined in Ohio R.C. Chapter 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.
- (10) Gains from involuntary conversion, interest on federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business conducted in the City).
- (11) Compensation and net profits the taxation of which is prohibited by the United States Constitution at any act of Congress limiting the power of the states of their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (12) Compensation and net profits the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of a municipal corporation to impose net income taxes.
- (13) The amount of unreimbursed employee business expenses that the taxpayer deducted as an itemized deduction on his Federal Income Tax return, as shown on the IRS Form 2106 filed with the taxpayer's Federal Income Tax return for the taxable year. For this exemption to be applicable, the taxpayer must furnish a copy of the IRS Form 2106 and Schedule A as the same were filed with the taxpayer's Federal Income Tax return for the taxable year.
- (14) An S Corporation shareholder's distributive share of net profits or losses of the S Corporation, except to the extent that the distributive share of net profits represents wages as defined in Section 3121(a) of the Code or net earnings from self-employment as defined in Section 1402(a) of the Code.

- (15) Pursuant to Ohio R.C. 718.011, Compensation paid to a nonresident for personal services performed by the individual in the City on 12 or fewer days in a calendar year, unless: (i) the individual is an employee of another person, such individual's employer has its principal place of business in another taxing Municipality in Ohio, and such individual is not liable to the other taxing municipality for tax on the compensation paid for the services performed in the City; or (ii) the individual receives such compensation as a professional entertainer or professional athlete, the promoter of a professional entertainment or sporting event, or an employee of such a promoter.
- (16) Items excluded from gross income for Federal Income Tax purposes under Section 107 of the Code (dealing with parsonage and rental allowances for ministers).
- (17) Items excluded from gross income for Federal Income Tax purposes under Section 107 of the Code (dealing with parsonage and rental allowances for ministers).

(g) Expenses Not Deductible. No deduction shall be permitted for the following expenses:

- (1) Health insurance premiums paid by self-employed taxpayers.
- (2) Self-employment tax paid by self-employed taxpayers.
- (3) Contributions by taxpayers to IRA or Keogh (H.R. 10) plans.
(Ord. 2006-5. Passed 3-14-06.)

185.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall take effect February 1, 1970 and shall continue indefinitely.

(Ord. 2006-5. Passed 3-14-06.)

185.05 ANNUAL RETURN AND PAYMENT OF TAX.

(a) Each taxpayer having taxable income for a taxable year that is subject to the tax imposed by this chapter, whether or not a tax is due thereon, shall make and file a return on or before April 15 of the following calendar year in the case of a taxpayer using a calendar year for Federal Income Tax purposes or on or before the last day of the fourth month after the end of the fiscal year in the case of a taxpayer using a fiscal year for Federal Income Tax purposes.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator, or on any form that comports with Ohio R.C. 718.05(C), setting forth:

- (1) The aggregate amounts of compensation and other taxable income earned or received by the taxpayer, and the gross income from a business less allowable expenses incurred in the acquisition of such gross income to arrive at net profits. Only compensation and other taxable income earned or received and gross income earned during the taxable year, or portion thereof, covered by the return and subject to the tax imposed by this chapter shall be included on that return.

- (2) The amount of tax imposed by this chapter on compensation, net profits and other taxable income, less any credits to which the taxpayer may be entitled under the provisions of Sections 185.06, 185.07 or 185.13.
- (3) Such other pertinent statements, information returns, or other information as the Administrator may require.
- (4) A return shall be deemed filed when postmarked by the United States Postal Service or on the date delivered other than by the United States Postal Service during normal business hours to the City Income Tax office.

(c) Extension of Time for Filing Returns. The Administrator may extend the due date for filing the annual return upon the request of a taxpayer for a period not to exceed six months, or until the last day of the month to which an extension is granted by the Internal Revenue Service for the filing of the taxpayer's Federal Income Tax Return for the same taxable year. A taxpayer shall request an extension of the due date for filing an annual return by filing with the Administrator a copy of the taxpayer's request for an extension of time to file the taxpayer's Federal Income Tax return for the same taxable year no later than the last day prescribed by Section 185.05(a) for the filing of the annual return. A request to extend the due date for filing an annual return will be granted automatically unless the taxpayer:

- (1) Fails to timely file such request;
- (2) Fails to file a copy of the request for an extension of the due date for filing the taxpayer's Federal Income Tax return for the same taxable year;
- (3) Owes any delinquent City income tax, penalty, interest, assessment, or other charge for the late payment or nonpayment of City income tax; or
- (4) Has failed to file any required City income tax return, report, or other related document for a prior taxable year.

The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. The granting of an extension of the due date for filing a City income tax return does not extend the due date as provided in this Section 185.05 for payment of the tax; hence, a penalty and interest may apply to any unpaid City income tax during the period of extension. A penalty shall not be assessed if the return is filed and the full amount of tax shown on that return is paid on or before the extended due date. Interest shall be charged on the unpaid balance at the rate of one percent (1%) per month, computed monthly, for the period of the extension with any portion of a month to be charged as a full month.

(d) The taxpayer making the City income tax return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon. Where, however, any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 185.06, or where any portion of such tax has been paid by the Taxpayer pursuant to the provisions of Sections 185.05 and 185.07, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the City income tax return.

(e) Should the return, or the records of the Administrator, indicate an overpayment of the tax to which the City is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability, including penalties and interest, of the taxpayer to the City, and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability of the taxpayer to the City.

(f) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 185.11 and 185.13. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

(Ord. 2006-5. Passed 3-14-06.)

185.06 COLLECTION AT SOURCE; WITHHOLDING BY EMPLOYER.

(a) Each employer within or doing business in the City who or that employs one or more persons shall, at the time of payment of compensation, deduct the City income tax at the applicable rate then in effect from the gross compensation earned or received by residents, regardless of where such compensation was earned or received, and shall deduct that City income tax from the compensation earned or received from work done or services performed or rendered in the City by nonresidents. Over the road drivers reporting to a terminal located in the City shall have a minimum of ten percent (10%) of their compensation allocated to the City on which City income tax shall be deducted.

(b) Notwithstanding the provisions of subsection (a) hereof, if an employer employs a resident in another taxing municipality that requires such employer to deduct its tax on the full amount of compensation paid to all employees engaged therein, such employer shall be required to withhold for and remit to the City only the difference, if any, between City income tax and the tax imposed by such other taxing municipality on such compensation.

(c) Each employer subject to the provisions of this Section 185.06 shall, on or before the last day of the month, make a return and remit to the City the City income tax withheld in the previous month. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of City income tax required to be deducted and withheld, whether or not such tax has in fact been withheld. If the amount of the City income tax so deducted by an employer in any one month is less than one hundred dollars (\$100.00), however, the employer may defer the filing of return and payment of the amount deducted for that month and the following one or two months in that calendar quarter until the last day of the month following the end of the calendar quarter in which that month occurs.

(d) On or before each January 31, each employer subject to the provisions of this Section 185.06 shall file with the Administrator an annual reconciliation return for the prior calendar year along with an information return for each employee from whom City income tax has been, or should have been, withheld for the prior calendar year showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year to such employee and the amount of City income tax withheld from the compensation of such employee and shall provide a copy of such information return to the employee. The information return shall include all of the information required to be reported by the employer to the Internal Revenue Service on a Form W-2. At the time of filing the annual reconciliation return, the employer shall pay over any amounts deducted or that should have been deducted during the preceding calendar year but that were not previously remitted. The annual reconciliation form shall be obtained from the Tax Administrator.

(e) In collecting City income tax, the employer shall be deemed to hold the same as a trustee for the benefit of the City until payment is made by such employer to the City, and such tax collected by such employer from its employees shall be deemed a trust fund in the hands of such employer until paid to the City.

(f) On or before each January 31, any person who contracts or otherwise engages another person to perform services or conduct business for remuneration in any form, including, but not limited to, the sale of real estate, the sale of insurance, construction, transportation, or other contract or subcontract services, shall file with the Administrator an information return, which shall include the proper name, address, federal identification number and the amount of such remuneration paid during the prior calendar year to such person. Failure to provide the foregoing information may result in the disallowance of any deduction claimed by the taxpayer in respect of payments made to another person under contract or other engagement for the performance of services or conduct of business.

(g) On or before each January 31 and each July 31, any person engaged in the rental of real estate that receives "rental income," as described in Section 185.02(cc), shall file with the Administrator a list of tenants as of December 31 and June 30, respectively, including the name and address of each tenant.

(h) Any return or form required to be filed under this Section 185.06 is considered filed on the date postmarked by the United States Post Office or on the date delivered other than by the United States Postal Service during normal business hours to the City income tax office.

(i) The officer, employee or owner ("responsible person") of an employer having control or supervision or charged with the responsibility of filing the return and making the payment required under this Section 185.06, shall be personally liable for failure to file such return or pay such tax, penalty and interest. The dissolution, bankruptcy, or reorganization of any such employer required to file the return and pay the tax described in this Section 185.06 does not discharge a responsible person's liability for a prior failure of such employer to file such return or pay such tax and penalty and interest due.

(j) For taxable years on or after January 1, 2007, any employer subject to this Section 185.06 may use the Ohio business gateway both to report the amount of City income tax withheld from compensation and to remit such amounts.

(k) 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.

(l) An employee is not relieved from liability for City income tax by the failure of the employer to withhold the tax as required by this Section 185.06 or by the employer's exemption from the requirement to withhold City income tax.

(m) The failure of an employer to remit the City income 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 City income tax withheld.

(n) Except as otherwise provided in this Section 185.06(n), a pass-through entity that conducts business within the City and that has a nonresident owner must: (i) withhold City income tax at the rate specified in Section 185.03(a) on the nonresident owner's distributive share of the pass-through entity's net profits attributable to the City; and (ii) remit such tax to the City by the applicable dates provided in Section 185.07. A pass-through entity subject to this Section 185.06(n) that fails to collect or remit City income tax as provided in this Section 185.06(n) shall be liable for the tax that it should have withheld or remitted and shall be subject to the interest and penalty provisions of Section 185.10. The nonresident owner shall receive a credit against its City income tax liability in the amount of City income tax so withheld by the pass-through entity. All claims for refunds of City income tax withheld by a pass-through entity pursuant to this Section 185.06(n) must be made by the nonresident owner within the period set forth in Section 185.11(b). A pass-through entity is not required to withhold and remit City income tax to the extent that is nonresident owners both: (i) file City income tax returns and declaration as provided in Sections 185.05 and 185.07, respectively, that report their distributive shares of the pass-through entity's net profits attributable to the City; and (ii) pay City income tax thereon.
(Ord. 2006-05. Passed 3-14-06.)

185.07 DECLARATIONS.

(a) Every person who anticipates any taxable income that is not subject to the provisions of Section 185.06, or who engages in any business subject to City income tax shall file a declaration setting forth such estimated income or the estimated net profit from such business together with the estimated City income tax due thereon, if any. For taxable years beginning on or after January 1, 2005, declarations of estimated net profits from any business conducted within the City and payment of estimated City income tax thereon may be made by using the Ohio business gateway, as described in Ohio R.C. 718.051, including any amendments or successor provisions thereto. No declaration or payment of estimated tax is required if the estimated City income tax for the current year, less the City income tax to be withheld and less the tax credits provided under this section and Sections 185.06 and 185.13, amounts to not more than ten dollars (\$10.00), or if a person's income is wholly from compensation from which City income tax will be withheld and remitted to the City in accordance with Section 185.06.

(b) Such declaration shall be filed on or before April 15 of each taxable year during the effective period of this chapter, or within four months of the date the taxpayer first becomes subject to tax imposed by this chapter.

(c) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year.

(d) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator or on a generic form prescribed by Ohio R.C. 718.05. Credit shall be taken for City income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for income tax payable to other taxing municipalities in accordance with the provisions of Section 185.13.

(e) 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.

(f) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth of the estimated annual City income tax due after deducting:

- (1) Any portion of City income tax to be deducted or withheld at the source pursuant to Section 185.06;
- (2) Any credits allowable under the provisions of Section 185.13; and
- (3) Any overpayment of the previous year's City income tax liability that the taxpayer has not elected to have refunded or previously claimed as a credit.

At least a similar amount shall be paid on or before the last day of the month following the seventh and tenth months after the beginning of the taxpayer's taxable year, and on or before the last day of the first month of the succeeding taxable year; provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for only a portion of the taxable year, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(g) Notwithstanding subsection (f) hereof, every individual making the declaration with respect to taxable income not subject to Section 185.06 for a taxable year beginning on or after January 1, 2003 shall remit payment of the estimated annual City income tax as follows:

- (1) At least twenty-two and one-half percent (22.5%) of such individual's estimated City income tax liability for the current taxable year shall be remitted on or before April 15 or the day on which the annual tax return for the prior taxable year must be filed, in accordance with Section 185.05, disregarding any extension;
- (2) At least forty-five percent (45%) of such individual's estimated City income tax liability for the current taxable year shall be remitted on or before July 31;
- (3) At least sixty-seven and one-half percent (67.5%) of such individual's estimated City income tax liability for the current taxable year shall be remitted on or before October 31; and

- (4) At least ninety percent (90%) of such individual's estimated City income tax liability for the current taxable year shall be remitted on or before January 31 of the following taxable year.

Every person making the declaration with respect to the taxable income from any business subject to City income tax shall remit payment of the estimated annual City income tax as follows:

- (1) At least twenty-two and one-half percent (22.5%) of the taxpayer's estimated City income tax liability for the current taxable year shall be remitted on or before the day on which the annual return for the prior taxable year must be filed, in accordance with Section 185.05, disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year;
- (2) At least forty-five percent (45%) of the taxpayer's estimated City income tax liability for the current taxable year shall be remitted on or before June 15, or in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year;
- (3) At least sixty-seven and one-half percent (67.5%) of the taxpayer's estimated City Income Tax liability for the current taxable year shall be remitted on or before September 15, or in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year; and
- (4) At least ninety percent (90%) of the taxpayer's estimated City income tax liability for the current taxable year shall be remitted on or before December 15, or, in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's taxable year.

All payments of estimated annual City income tax made pursuant to this subsection (g) shall be made after deducting:

- (1) Any portion of City income tax to be deducted or withheld at the source pursuant to Section 185.06;
- (2) Any credits allowable under the provisions of Section 185.13; and
- (3) Any overpayment of the previous year's City income tax liability that the taxpayer has not elected to have refunded or previously claimed as a credit.

(h) On or before the last day of the fourth month following the end of the taxable year for which such declaration or amended declaration was filed, an annual return shall be filed, and any balance that may be due to the City shall be paid therewith in accordance with the provisions of Section 185.05. Any taxpayer, however, may file an annual return on or before the last day of the first month following the end of the taxable year for which such declaration or amended declaration was filed and pay any balance due at such time in lieu of filing such declaration or amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(i) An amended declaration must be filed when the original declaration made for taxable year underestimates the taxpayer's taxable income by ten percent (10%) or more. The unpaid balance of estimated tax shall be paid in equal installments on or before the payment dates provided in subsection (f) and (g) hereof. If a taxpayer fails to remit the full amount of estimated City income tax required to be paid by an applicable due date specified in subsections (f) and (g) hereof, such underpayment of estimated City income tax shall be subject to the interest and penalty provisions of Section 185.10. No penalty, interest, interest penalty, or other similar assessment or charge, however, shall be imposed against a taxpayer for the late payment or nonpayment of estimated City income tax in either of the following circumstances:

- (1) The taxpayer is a resident but was not domiciled in the City on January 1 of the calendar year; or
- (2) The taxpayer has remitted, pursuant to subsections (f) and (g) hereof, an amount at least equal to one hundred percent (100%) of the taxpayer's City income tax liability for the preceding taxable year as shown on the return filed by the taxpayer for the preceding taxable year, provided that the return for the preceding taxable year reflected a 12-month period and the taxpayer filed a return for the preceding taxable year.
(Ord. 2006-5. Passed 3-14-06.)

185.08 DUTIES OF THE ADMINISTRATOR.

(a) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from taxpayers, to keep an accurate record thereof, and to report all money so received.

(b) It shall be the duty of the Administrator to enforce payment of all taxes owing to the City and to keep accurate records for a minimum of five years that show the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and the amounts of payments thereof.

(c) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

- (1) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until the taxpayer files proper returns for all amounts owned by him under this chapter.
- (2) Failure to make any deferred payment when due shall cause the total unpaid amounts, including penalty and interest, to become payable on demand, and the provisions of Sections 185.11 and 185.99 shall apply.

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

(e) Subject to the consent of the Board or pursuant to regulations approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 185.10.
(Ord. 2006-5. Passed 3-14-06.)

185.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

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

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

(c) The refusal by any employer or person subject or presumed to be subject to the City income tax or by any officer, agent or employee of a person subject to the City income tax or required to withhold City income tax, to produce books, papers, records and Federal Income Tax returns, the refusal to submit to such examination or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in Section 185.99.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, for disclosure and exchange of information with other federal, state or local taxing authorities for tax collection purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this subsection shall be subject to the penalty provided in Section 185.99. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provisions of this subsection relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his City income tax liability for a period of five years from the date his return is filed, or the date the withholding taxes are paid to the City.

(Ord. 2006-5. Passed 3-14-06.)

185.10 INTEREST AND CIVIL PENALTIES.

(a) Interest. All taxes imposed and all money withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month, or any portion thereof, on the unpaid balance.

(b) Penalties. In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld, ten percent (10%) per year, computed on a monthly basis, but not less than twenty-five dollars (\$25.00).
- (2) For failure to remit taxes withheld for employees, ten percent (10%) per month or fraction thereof, but the accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00).

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, and provided further that in the absence of fraud, a penalty shall not be assessed on any additional tax assessment resulting from a federal audit, provided that an amended return is filed and the additional City income tax, if any, is paid within three months after final determination of the Federal Income Tax liability as set forth at Section 185.05(f). Interest on any additional tax due will be assessed from the original due date of the return at the rate of one percent (1%) per month, or portion thereof, on the unpaid balance. Interest will be paid on any overpayment of City income tax from the date of such overpayment to the date of the refund of such overpayment, at the rate set forth in Ohio R.C. 718.12(D) and Ohio R.C. 5703.47.

(d) Abatement. Upon recommendation of the Administrator, the Board may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both. (Ord. 2006-5. Passed 3-14-06.)

185.11 COLLECTION OF UNPAID TAXES, CIVIL LITIGATION; CRIMINAL PROSECUTION; STATUTE OF LIMITATIONS; 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. Such suit shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Prosecutions for an offense made punishable under this chapter shall be commenced within three 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 the taxable income required to be reported, prosecutions may be commenced within six years after the commission of the offense. Taxes erroneously paid or withheld shall not be refunded unless a claim for refund is made within three years after the tax was due or the return filed, whichever is later. (Ord. 2006-5. Passed 3-14-06.)

185.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals, each to be appointed by the City Manager and approved by Council, is hereby created. The first three members of the Board shall be appointed in the following manner: one to serve for a term of two years; one to serve for a term of four years; and one to serve for a term of six years. At the expiration of each term of office set forth in this subsection, the succeeding member shall be appointed for a term of six years.

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 Ohio R.C. 149.43. Any hearing by the Board may be conducted privately and the provisions of Section 185.09, with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard before the Board on appeal. Hearings requested by a taxpayer before the Board are not meetings of a public body that are subject to Ohio R.C. 121.22.

(b) All rules and regulations, and amendments or changes thereto, that are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) The Administrator, in issuing any ruling or decision for which authority has been conferred upon it by this chapter, shall at the same time notify the taxpayer of both the taxpayer's right to appeal such ruling or decision and the manner in which the taxpayer may appeal such ruling or decision. Any person dissatisfied with any ruling or decision of the Administrator, which is made under the authority conferred by this chapter, may appeal therefrom to the Board within 30 days from the announcement of such ruling or decision by the Administrator, and the Board, on hearing, shall have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. An appeal of a ruling or decision of the Administrator must be in writing and must state why such ruling or decision is deemed incorrect or unlawful. The Board shall schedule any hearings and issue its decision within the periods prescribed by Ohio R.C. 718.11. If the taxpayer does not waive a hearing before the Board, the taxpayer may appear before the Board and may be represented as provided by law. All appeals of decisions of the Board shall be made in accordance with Ohio R.C. 718.11 and 5717.011.
(Ord. 2006-5. Passed 3-14-06.)

185.13 RELIEF PROVISIONS; CREDIT FOR TAX PAID TO ANOTHER MUNICIPAL CORPORATION.

(a) Residents. Except as otherwise provided in this Section 185.13 when a resident is subject to and has paid, or has acknowledged liability for, a municipal income tax in another taxing municipality on the same income taxable under this chapter, such resident shall not be allowed any credit against or claim or refund for City income tax for the tax paid to the other taxing municipality, and the City will not acknowledge or allow any claim for refund of any portion of the City income tax so levied.

(b) For taxable years beginning on or after January 1, 2003, a resident owner of a pass-through entity that does not conduct business in the City and that has paid or has acknowledged liability for an income tax in another taxing municipality may claim a credit equal to the lesser of the following amounts:

- (1) The resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to another taxing municipality in the state; or
- (2) The resident owner's proportionate share of the amount of City income tax that would be imposed on the pass-through entity if the pass-through entity conducted business in the City.

In no case shall the credit authorized by this subsection (b) exceed fifty percent (50%) of the City income tax assessed under this chapter.

(c) Where applicable, the credits provided by Ohio R.C. 718.021 (credit for qualifying losses on Nonqualified Deferred Compensation Plans) and 718.121 (credit for tax paid to first taxing municipality when City assessment comes after expiration of statute of limitations for refund claims to the first taxing municipality) shall be available to residents.

(d) Nonresidents. Except as provided in Ohio R.C. 718.021 and 718.121, when a nonresident is subject to the tax imposed by this chapter and is also subject to tax on the same income in the municipal corporation of his residence, he shall not be allowed any credit against or claim for refund for City income tax, nor will the City acknowledge or allow any claim for refund of any portion of the City income tax so levied.

(e) Claim for Credit. The credits provided for in this Section 185.13 will not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with, the Administrator. In the event a taxpayer fails, neglects or refuses to file such a timely return or form, he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this chapter, together with such interest and penalties, both civil and criminal, as prescribed in this chapter.

(f) No credit shall be given to any taxpayer for any school district income tax.
(Ord. 2006-5. Passed 3-14-06.)

185.14 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until revoked, 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 have been fully terminated, subject to the limitations contained in Sections 185.11 and 185.99.

(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 Section 185.05 and 185.06 as though the same were continuing.
(Ord. 2006-5. Passed 3-14-06.)

185.15 ALLOCATIONS OF FUNDS.

The funds collected under the provisions of this chapter shall be applied for the following purposes:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of administering and enforcing the provisions thereof.
- (b) After providing for the allocations of funds set forth in subsection (a) hereof, funds shall be set aside, appropriated and paid into the General Bond Retirement Fund or another fund specified by ordinance of the Council, in an amount equal to the annual principal and interest payments due (within that year) on all bonds, notes or other obligations for which income tax revenues have been pledge, including but not limited to the Service Building Bonds.
- (c) After providing for the allocation of funds set forth in subsection (a) and (b) hereof, not less than seven percent (7%) of the funds shall be set aside, appropriated and paid into the Capital Improvement Fund.
- (d) After providing for the allocation of funds set forth in subsections (a) and (b) and (c) the funds remaining shall be used for any purpose as may be determined by ordinance of the Council. (Ord. 2006-5. Passed 3-14-06.)

185.16 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 2006-5. Passed 3-14-06.)

185.99 VIOLATIONS; PENALTY.

- (a) Any person who:
 - (1) Fails, neglects or refuses to make any return, declaration, or information form required by this chapter;
 - (2) Makes any incomplete, false or fraudulent return;
 - (3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter;
 - (4) Fails, neglects or refuses to withhold the City income tax from his employees or remit such withholding to the Administrator;
 - (5) Refuses to permit the Administrator or any duly authorized agent or employee to examine the books, records, papers and Federal Income Tax returns relating to the income or net profits of a taxpayer;
 - (6) Fails to appear before the Administrator and to produce the books, records, papers or Federal Income Tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;

- (7) Refuses to disclose to the Administrator any information with respect to the income, compensation, or net profits of a taxpayer;
- (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (9) Gives to an employer false information as to his true name, correct Social Security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof;
- (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total compensation paid and City income tax withheld, or knowingly gives the Administrator false information; or,
- (11) Attempts to do anything whatever to avoid the payment of the whole or any part of the City income tax, penalties or interest imposed by this chapter; shall, upon conviction, be guilty of a third degree misdemeanor.

(b) Every taxpayer having taxable income but not having a tax due thereon and failing, neglecting or refusing to make any return or declaration required by this chapter shall be subject to a penalty of twenty-five dollars (\$25.00) for such failure, neglect or refusal, such fine to be imposed by the Administrator.

(c) All prosecutions under this section must be commenced within the time specified in Section 185.11(b) and Ohio R.C. 718.12.

(d) 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 return, declaration, or information return, from filing such form, or from paying the City income tax.
(Ord. 2006-5. Passed 3-14-06.)