

CHAPTER 181
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181.01 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purposes of road, street and highway construction and improvement, improvement of police protection, improvement of fire protection, improvement and construction of storm drainage and the improvement of general municipal functions of the City there is levied a tax on all salaries, wages, commissions and other compensations, other income, lottery winnings and other gambling winnings, and on net profits as hereinafter provided.

(1969 Code 92.01)

181.02 DEFINITIONS.

For the purpose of this chapter the terms, phrases, words and their derivatives shall have the meanings given in this section. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(a) Administrator means the individual designated to administrate and enforce the provisions of this chapter and the administrator shall be the City Finance Director.

(b) Assignment shall mean the assignment made by a resident of Mentor of a claim for refund due from another taxing municipality granting credit to non-residents thereof.

(c) Association means any pass-through entity, as defined in Chapter 718 of the Ohio Revised Code, or any unincorporated enterprise or unincorporated business entity owned by one or more persons.

(d) Board of review means the board created by and constituted as provided in Section 181.42.

(e) Business means any enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding however, all non-profit corporations which are exempt from the payment of federal income tax.

(f) 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, but shall not include any entity which meets the definition of a pass-through entity as set forth in this chapter.

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

(h) Employer means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation, and includes all corporate officers for purposes of Section 181.17.

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

(j) Gross receipts means the total income from any source whatever.

(k) Net profits means a net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; and in the case of an association without deduction of salaries paid to partners and other owners.

(l) Non-resident means an individual domiciled outside the City.

(m) Non-resident unincorporated business entity means an unincorporated business entity not having an office or place of business within the City.

(n) Person means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

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

(p) Resident means an individual domiciled in the City.

(q) Resident unincorporated business entity means an unincorporated business entity having an office or place of business within the City.

(r) Taxable income means any and all income earned or received by an individual or an entity, the taxation of which by the City is not prohibited by federal law, state law or specifically exempted under Section 181.10 of this chapter. Wages, salaries, lottery winnings, and other winnings from any and all types of gambling shall be considered taxable income. All employee compensation before any deduction, and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter shall be considered taxable income.

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

(t) Taxing municipality means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and the net profits earned from the operation of a business, profession or other activity.

(u) Taxpayer means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax. (1969 Code 92.02)

181.03 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 181.01 hereof shall be imposed on and after May 1, 1987 at the rate of two percent (2%) per annum upon the following:

(a) On all salaries, wages, commissions and other compensation, lottery winnings, other gambling winnings, and other income earned or received on or after May 1, 1987 by residents of the City.

(b) On all salaries, wages, commissions, other compensation and other income earned or received on or after May 1, 1987 by non-residents of the City for work done or services performed or rendered or activities conducted within the City.

(c) On the portion attributable to the City on the net profits earned on and after May 1, 1987, of all resident unincorporated business entities or pass-through entities or professions or other activities derived from sales made, work done, services performed or rendered and business or other activities conducted in the City. The distributive share of the profits of a pass-through entity is to be taxed in the hands of the owner or partner, but the entity is still required to report all income and to pay any tax owed on said profits on behalf of the owner or partner.

(d) On the portion of the distributive share of the net profits earned on and after May 1, 1987 of a resident partner or owner of a resident association not attributable to the City and not levied against such association. The distributive share is to be taxed in the hands of the owner or partner, but the entity is still required to report and pay the tax on behalf of the owner or partner.

(e) On the portion attributable to the City of the net profits earned on and after May 1, 1987 of a resident partner or owner of resident unincorporated business entities or professions or pass-through entities or other activities derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(f) On the portion of the distributive share of the net profits earned on and after May 1, 1987 of a resident partner or owner of a non-resident association not attributable to the City and not levied against such association.

(g) On the portion attributable to the City of Mentor of the net profits earned on and after May 1, 1981 of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Mentor, whether or not such corporations have an office or place of business in the City of Mentor.

(h) Lottery and gambling losses are deductible against lottery and gambling winnings. The Administrator shall provide by rules and regulations the manner in which to determine such losses.
(1969 Code 92.03)

181.04 EFFECTIVE PERIOD.

Said tax of two percent (2%) shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, other income, lottery winnings, other gambling winnings, and with respect to the net profits of businesses, professions or other activities earned on and after May 1, 1987. Said tax shall be in full force and effect until December 31, 2012.

(Ord 07-0-55. Passed at Polls 11-6-07; Ord. 08-0-48. Passed 5-6-08.)

DETERMINATION OF ALLOCATION OF TAX

181.05 METHOD OF DETERMINATION.

In the taxation of income which is subject to City income tax if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable situs in the City for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City in the absence of actual records thereof, shall be determined as follows: Multiply the entire net profits by a business allocation percentage to be determined by a three factor formula of property, payroll, and sales, each of which shall be given equal weight, as follows:

(a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all 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) Salaries, wages, commissions, other compensation and other income paid during the taxable period to persons employed in the business or profession for services performed in the City to salaries, wages, commissions, other compensation and other income paid during the same period to persons employed in the business or profession, wherever their services are performed.

(c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed. In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result. (1969 Code 92.05)

181.06 SALES MADE IN THE CITY.

As used in paragraph (c) of Section 181.05, "sales made in the City" means:

(a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.

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

(c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of 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. (1969 Code 92.06)

181.07 TOTAL COLLECTION.

Add together the percentages determined in accordance with sub-paragraphs (a), (b) and (c) of Section 181.05 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used deriving said total in order to obtain the business allocation percentage referred to in Section 181.05. A factor is applicable even though it may be allocable entirely in or outside the City. (1969 Code 92.07)

181.08 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under sub-paragraphs (c), (d), (e), (f), and (g) of Section 181.03, only if and to the extent that the rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregate in excess of \$125 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$125 per month; provided further that in the case of farm property the owner shall be considered engaged in a business activity when he shares in 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 said \$125 per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$125 per month.

(1969 Code 92.08)

181.09 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1968 allocable to the City may be applied against the portion of the profit of succeeding tax years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to the City.

(c) The Administrator shall provide by rules and regulations the manner in which such operating loss carry-forward shall be determined.

(1969 Code 92.09)

EXEMPTIONS

181.10 SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the armed forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

(b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, state or federal governments or charitable, religious or educational organizations.

(c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona-fide charitable, religious or educational organizations and associations.

(e) Alimony received.

(f) Personal earnings of any natural person under 18 years of age.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(h) Interest, dividends and other revenue from intangible property subject to the Ohio Intangible Property Tax or specifically exempted therefrom.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the City is specifically prohibited from taxing, and income of a descendant's estate during the period of administration (except such income from the operation of a business).

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes. (1969 Code 92.10)

RETURNS

181.11 WHEN RETURN REQUIRED TO BE MADE.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth month following the end of such fiscal year or period. Any person who has no income need not file an annual return. Any person who has exempt income must file a return and declare to the Administrator the nature of his or her exemption. Any person who has taxable income must file a tax return with the Tax Administrator.

(b) If a taxpayers entire income is exempt from taxation by the City, the taxpayer, in lieu of filing a return, shall file a one-time individual declaration of exemption stating the reasons the taxpayer is exempt. If at any time thereafter the taxpayer once again earns and/or receives income taxable to the City, the Taxpayer must reactivate his City tax account by informing the Finance Director within thirty (30) days after earning or receiving such income.
(Ord. 08-0-48. Passed 5-6-08.)

181.12 FORM AND CONTENT OF RETURN.

The return shall be filed with the administrator on a form or forms furnished by or obtainable upon request from such Administrator, setting forth:

(a) The aggregate amounts of salaries, wages, commissions, lottery winnings, other gambling winnings, other compensation and other income earned or received and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned or received during the preceding year and subject to said tax; and

(b) The amount of the tax imposed by this chapter on such income; and

(c) Such other pertinent statements or other information as the Administrator may require.
(1969 Code 92.16)

181.13 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed 6 months, or 1 month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the

return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.
(1969 Code 92.17)

181.14 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.
(1969 Code 92.18)

181.15 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 181.24 to 181.28 hereof. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within 3 months from the final determination of any federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(1969 Code 92.19)

PAYMENT OF TAX

181.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of filing thereof pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.17 thereof, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.18 hereof, or whether an

income tax has been paid to another municipality credit for the amount so paid in accordance with Section 181.27 hereof, 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 said return.

(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election, indicating on the return, such overpayment (or part thereof) shall be refunded, providing that no additional taxes or refunds of less than \$1.00 shall be collected or refunded.
(1969 Code 92.20)

181.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct, at the time of payment of such salary, wage, commission, other compensation and other income due from said employer to said employee, the tax imposed by Section 181.03 upon the gross salaries, wages, commissions, other compensation and other income on the tips or gratuities reported to said employer by each said employee for Social Security or Federal Income Tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted subject to the provisions of subsections (c), (d) and (e) hereof. Said returns 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 the tax required to be deducted and withheld, whether or not such taxes have, in fact, been withheld.

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

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

181.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Every person who anticipates any taxable income which is not subject to Section 181.17 hereof, including lottery winnings and other gambling winnings, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 hereof 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 wages from which the tax

will be withheld and remitted to the City in accordance with Section 181.17 hereof, such person need not file a declaration.
(1969 Code 92.22)

181.19 FILING OF DECLARATION.

(a) The declaration required by Section 181.18 shall be filed on or before April 15 of each year during the effective period set forth in Section 181.04 or within 4 months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within 4 months after the beginning of each fiscal year or period.
(Ord. 08-0-48. Passed 5-6-08.)

181.20 FORM OF DECLARATION.

(a) The declaration required by Section 181.20 shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for City tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.27 hereof, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) The original declaration (or any subsequent amendment thereof) may be increased on or before any subsequent quarterly payment date as provided for herein.
(1969 Code 92.24)

181.21 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least 1/4 of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
(1969 Code 92.25)

181.22 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 181.16.
(1969 Code 92.26)

181.23 EXTENSIONS.

The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this section for a period not to exceed 6 months beyond the original required date.
(1969 Code 92.27)

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

181.24 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, or omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after 3 years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be 1 year from the time of final determination of the federal tax liability.
(1969 Code 92.30)

181.25 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time specified in Ohio R.C. 718.12.
(1969 Code 92.31)

181.26 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than \$1.00 shall not be collected or refunded.
(1969 Code 92.32)

TAXPAYER RELIEF AND RECIPROCITY PROVISIONS

181.27 MENTOR RESIDENT SUBJECT TO INCOME TAX IN OTHER MUNICIPALITY.

Where a resident of Mentor is subject to a municipal income tax in another municipality on the same income taxable under this Chapter, a credit shall be allowed against Mentor Income Tax of the amount of net tax for which he is liable under the ordinance of such other municipality, but such credit shall not be in excess of the tax assessed under Section 181.03 of the Mentor Codified ordinances.
(1969 Code 92.36)

181.28 CLAIM FOR CREDIT.

Any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31st of the year following that for which such credit is claimed. Failure to file such claim for credit or refund, as assignment thereof, within the time prescribed herein shall render such credit, claim for refund, or assignment null and void. (1969 Code 92.37)

DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

181.29 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in paragraph one above shall be deposited in the general fund for the municipal purposes contained in Section 181.01.

(1969 Code 92.40)

DUTIES AND AUTHORITY OF ADMINISTRATOR

181.30 DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this Chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

(1969 Code 92.45)

181.31 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to the City to keep accurate records for a minimum of 5 years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof.

(1969 Code 92.46)

181.32 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Administrator is charged with the enforcement of the provisions of this Chapter, and is empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this Chapter, including provisions for the re-examination and correction of returns.
(1969 Code 92.47)

181.33 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this Chapter. Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest to become payable on demand and the provisions of Sections 181.24 and 181.99 of this Chapter shall apply.
(1969 Code 92.48)

181.34 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.
(1969 Code 92.49)

181.35 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator, or any authorized employee, is authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is 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 authorized.
(1969 Code 92.50)

181.36 AUTHORITY TO COMPEL PRODUCTION OF RECORDS.

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

(1969 Code 92.51)

181.37 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and federal income tax returns or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed in violation of this chapter, punishable as provided in Section 181.99.

(1969 Code 92.52)

181.38 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of 5 years from the date his return is filed, or the withholding taxes are paid.

(1969 Code 92.53)

181.39 AUTHORITY IN CONTRACT FOR CENTRAL COLLECTION FACILITIES.

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

(1969 Code 92.54)

181.40 AUTHORITY TO CONTRACT FOR SERVICE.

In the event the City Manager, on behalf of the City, enters into an agreement with any other municipal corporation to act as agent of the City for the purpose of administering the income tax laws of the City and of providing a central facility for the collection of the income tax, as provided in Section 181.39 hereof, then all or part of the duties and authority of the Administrator may be assigned by such agreement, to such other municipal corporation.

(1969 Code 92.55)

181.41 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall be subject to a fine or penalty of not more than \$1,000 or imprisoned for not more than 6 months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosures of confidential information shall be guilty of an offense punishable by immediate dismissal.
(1969 Code 92.56)

BOARD OF REVIEW

181.42 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Director of Finance, or a person or employee in the Department of Finance designated by him, the Director of Law, or an Assistant Director of Law designated by him, and a member of City Council to be elected by that body, is hereby created. The Board shall select, each year for a one year term, one of its members to serve as chairman and one to serve as secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.41 hereof 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.
(1969 Code 92.60)

181.43 DUTY TO APPROVE REGULATIONS.

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective.
(1969 Code 92.61)

181.44 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to a court of competent jurisdiction in the manner prescribed by law.
(1969 Code 92.62)

OTHER PROVISIONS

181.45 DECLARATION OF LEGISLATIVE INTENT.

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 the Council of the City that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(1969 Code 92.63)

181.46 COLLECTION OF TAX.

(a) This section shall continue effective insofar as the levy of taxes is concerned until December 31, 2012 or until revoked by action of Council, the voters of the City or other operation of law, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.24 to 181.26 and 181.99.

(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 Sections 181.11 and 181.17 of this chapter as though the same were continuing.

(Ord. 08-0-48. Passed 5-6-08.)

PENALTY

181.99 PENALTY.

(a) Interest on Unpaid Tax. All taxes imposed and all monies 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 $\frac{1}{2}$ percent per month or fraction thereof.

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

(1) For failure to pay taxes due -- other than taxes withheld; 10% per annum or fraction thereof.

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

(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, neither penalty nor interest shall be assessed on any additional tax assessment against a taxpayer by the Administrator resulting from a federal audit, providing an amended return is filed and the additional tax is paid within 3 months after a final determination of the federal tax liability.

(d) Abatement of Interest and Penalty. Upon recommendation of the Administrator, or for good cause shown, the Board of Review may abate penalty or interest, or both.

(e) Violations. Any person who shall:

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

(2) Make any 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 or remit such withholding to the Administrator; or

(5) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or

(6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

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

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

(9) Give to an employer false information as to his true name, correct social security number and residence address or fail to properly notify any employer of any change in residence address and date thereof; or

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

(11) 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; shall be fined not more than (\$500.00) or imprisoned not more than 6 months, or both, for each offense.

(f) Limitation on Prosecution. and Civil Recovery.

(1) Prosecution for an offense punishable under this chapter shall be commenced within 3 years after the commission of the offense, provided, that in the case of fraud, failure to file a return, or the omission of 25 % or more of income required to be reported, prosecution may be commenced within 6 years after commission of the offense.

(2) Civil action to recover municipal income taxes, penalties and interest thereon shall be brought within 3 years after the tax was due or the return was filed, whichever is later.

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

(1969 Code 92.99)