

CHAPTER 191
Income Tax

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CROSS REFERENCES

Income tax - see CHTR. Art. V, Sec. 3
Municipal income taxes - see Ohio R.C. Ch. 718

191.01 PURPOSE.

The purpose of the provisions of this chapter is to provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvement of the City, in accordance with Article V, Section 3 of the Charter, and therefore, there shall be levied a tax on salaries, income, wages, commissions and other compensation and on net profits as hereinafter provided.

(Ord. 16-93. Passed 7-6-93.)

191.02 DEFINITIONS.

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

(1) "Association" means a partnership, limited partnership, Chapter S Corporation as defined in the Federal Tax Code, 26 U.S.C. 1361, or any other form of unincorporated enterprise, owned by two or more persons.

(2) "Board of Review" means the Board created by and constituted as provided in Section 191.12.

(3) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, copartnership, association, corporation or any other entity.

(4) "City" means the City of Painesville, Lake County, Ohio.

(5) "Commissioner of Taxation" means the person so designated and appointed by the City Manager or the person executing the duties of the aforesaid Commissioner.

(6) "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.

(7) "Employee" means anyone who works for wages, salary, commissions or any other type of compensation in the service of an employer, as "employee" is defined in the Federal Internal Revenue Code.

(8) "Employer" means an individual copartnership, association, corporation, governmental 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 compensation basis.

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

(10) "Net profits" means the net gain from the operation of a business, profession or enterprise 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 and without deductions for taxes imposed by this chapter and federal and other taxes based on income, and, in the case of an unincorporated entity, without deduction of salaries paid to partners or other owners.

(11) "Nonresident" means an individual domiciled outside the City.

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

(13) "Person" means every natural person, copartnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "person" as applied to an association means the partners or members thereof, and as applied to a corporation, the officers thereof.

(14) "Resident" means an individual domiciled in the City.

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

(16) "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 191.03(c) 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.

(17) "Taxable year" means the calendar year or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this chapter and, in the case where a return is made. Unless approved by the Commissioner of Taxation, the taxable year of an individual shall be a calendar year.

(18) "Taxpayer" means a person, whether an individual, copartnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

(b) The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 8-04. Passed 3-1-04.)

191.03 IMPOSITION.

(a) The tax required by Section 3 of Article V of the Charter shall be imposed at the rate of two percent (2%) per annum, on and after March 1, 1983, upon the following:

(1) On all salaries, income, wages, commissions and other compensation received by the residents of the City during the effective period of this chapter.

(2) On all salaries, income, wages, lottery winnings, other gambling winnings, commissions and other compensation received during the effective period of this chapter by nonresidents for work done or services performed or rendered in the City.

(3) A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the City.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.

(4) A. On the portion attributable to the City of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other activities, derived from work done or services performed or

rendered, and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity.

(5) On the portion attributable to the City of net profits earned during the effective period of this chapter of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(b) The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within 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 Commissioner of Taxation pursuant to this chapter.

(c) Exceptions. The tax provided herein shall not be levied upon:

(1) Poor relief, unemployment insurance benefits, old-age pensions or similar payments, including disability benefits, received from local, State or Federal Government or charitable, religious or educational organizations.

(2) Proceeds of insurance paid by reason of death of the insured, pensions, disability benefits, annuities or gratuities.

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

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

(5) Personal earnings and income of all persons under sixteen years of age.

(6) Gains from involuntary conversion, cancellations of indebtedness, interest on federal obligations, items of income already taxed by the State and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(7) Gains from sale or exchange of capital assets, as capital assets are defined under the rules of the Internal Revenue Code.

(8) Military pay and allowances by members of the Armed Forces of the United States.

(9) Income of religious, fraternal, charitable, scientific, literary, educational institutions or corporations organized not for profit.

(d) Rental Income. If gross receipts from all rental income received by a taxpayer do not exceed one hundred dollars (\$100.00) per month, such rental activity shall not be deemed a business activity as referred to in this section.

(e) Operating Loss Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to the date of this chapter allocable to the City may be applied against the portion of the profit of succeeding year(s) allocable to the City, until exhausted, but in no event for more than five taxable years.

No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to the City 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.

(f) Lottery and gambling losses are deductible against lottery and gambling winnings. The administration shall provide by rules and regulation on the manner in which to determine such losses.

(Ord. 8-04. Passed 3-1-04.)

191.04 EFFECTIVE DATE.

Such tax shall be levied, collected and paid with respect to the salaries, income, wages, commissions, other compensation and net profits of businesses, professions or other activities received on and after March 1, 1983, at the rate of two percent (2%) per annum.

(Ord. 16-93. Passed 7-6-93.)

191.05 RETURN AND PAYMENT.

(a) Each taxpayer or person who engages in business, or whose salaries, wages, income, lottery winnings, other gambling winnings, commissions and other compensation are subject to the tax imposed by this chapter, shall, whether or not a tax be due thereon, make and file a return on or before April 30, and on or before April 30 of each year thereafter with the Commissioner of Taxation on a form or forms furnished by or obtainable upon request from such Commissioner setting forth:

(1) The aggregate amounts of salaries, wages, commissions, lottery winnings, and other compensation received by him/her and/or gross income from such business less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax;

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

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

(b) When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or other period.

(c) The Commissioner of Taxation may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or three months beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) The return shall also show the amount of the tax imposed by this chapter on such earnings, income and profits. The taxpayer making such return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 191.06, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 191.07, 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 such return.

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

(e) The claiming of credit on a return or declaration for amounts paid to any other municipality under the provisions of Section 191.14, shall constitute an assignment and transfer to the City of all rights, title and interest of the taxpayer claiming such credit in and to any claim for refund of such amounts so paid to such other municipality. In the event a refund is not received by the City in an amount equal to the credit claimed by reason of tax payments made to another municipality, then the taxpayer shall be liable to the City for taxes due from the date of the filing of such return upon which the credit was

claimed of the amount by which the claimed credit exceeds the amount of refund received by the City.

(f) Assignment of any claim for refund to which a City resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of City income tax represented by such assignment; provided, however, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

(g) The Commissioner of Taxation is hereby authorized to provide by regulation, subject to the approval of the Board of Review, that the return of an employer or employers, showing the amount of tax deducted by such employer or employers, from the salaries, wages, commissions or other compensation of an employee, and paid by him/her or them to the Commissioner of Taxation shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this chapter is such salary, wages, commissions or other compensation.

Under such regulations as the Commissioner of Taxation may prescribe, subject to the approval of the Board of Review, any taxpayer, in lieu of filing a detailed return as hereinbefore provided, may file a sworn statement prescribed by the Commissioner of Taxation, of salaries, income, wages, commissions or other compensation or of net profits as reported on his/her federal income tax return for the period involved. Such statement shall also set forth each adjustment made under the terms of any City of Painesville income tax ordinance and the taxpayer filing such sworn statement shall pay the tax hereby levied on the adjusted amount thus reported in the statement.

(h) The provisions of subsection (g) hereof notwithstanding, all residents of the City of Painesville subject to the tax imposed herein shall, on or before April 30 of each year beginning in 1989 for the 1988 tax year, and annually thereafter, make and file a return with the Commissioner of Taxation as provided in this section. (See Rule 1-90, issued 5.21.90)

(i) Consolidated Returns.

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

(2) In the case of a corporation that carries 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/she may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking

directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he/she shall make such allocation as he/she deems appropriate to produce a fair and proper allocation of net profits to the City.

(j) In the case of a corporation that carries 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 Commissioner of Taxation shall require such additional information as may be necessary to ascertain whether net profits allocable to the City are being distorted by the shifting of income, apportionment of expenses, or other devices available to a common control. If the Commissioner of Taxation finds that a person's net profits allocable to the City are distorted 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/she shall adjust such transactions so as to produce a fair and proper allocation of net profits to the City. If necessary, the Commissioner of Taxation may require the filing of a consolidated return.

(k) 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/her election indicated on the return, such overpayment or part thereof shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(l) Within three months from the final determination of any federal tax liability, such taxpayer shall make and file an amended City return showing income subject to 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.
(Ord. 8-04. Passed 3-1-04.)

191.06 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the City who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) of the gross salaries, income, wages, commissions or other compensation due by the employer to such employee 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 Commissioner of Taxation the amount of taxes so deducted, subject to the provisions of subsections (c), (d) and (e) hereof. Such return shall be on a form or forms prescribed by or acceptable to the Commissioner of Taxation and shall be subject to the rules and regulations prescribed therefor by the Commissioner of Taxation.

(b) Every employer required to deduct and withhold the tax at the source is liable directly to the City for the payment of such tax, whether actually collected by such employer or not. Such employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the City, as a trustee for the benefit of the

City and any such tax collected by such employer from his/her 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 the amount of one hundred dollars (\$100.00) or more in the first or second month of a calendar quarter shall, on or before the twentieth day of the following month, pay to the Commissioner of Taxation the amount of taxes so deducted. Such employer who deducts the tax in the amount of one hundred dollars (\$100.00) or more in the third month of a calendar quarter may, at his/her option, on or before the twentieth day of the following month, pay to the Commissioner of Taxation the amount of taxes so deducted.

(d) Such employer who makes such payments on a monthly basis only for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld. Such employer who, at his/her option, makes such payment for the third month of a calendar quarter on or before the twentieth day of the following month, shall have until the twentieth day of the second month following the close of each such calendar quarter to file such employer's quarterly return of income tax withheld.

(e) Such payments shall be on the form or forms furnished by or obtainable upon request from the Commissioner of Taxation, setting forth the amount of tax deducted for the month. A receipted copy of such form shall be returned to the employer to be attached to and filed with the employer's quarterly return of income tax withheld.

(f) Provided, however, that no person shall be required to withhold the tax on wages or other compensation paid domestic servants employed exclusively in or about such person's residence.
(Ord. 16-93. Passed 7-6-93.)

191.07 DECLARATION.

(a) Every taxpayer or person who anticipates any taxable income which is not subject to Section 191.06, or who engages in any business, profession, enterprise or activity 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 thereof, if any.

(b) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to the tax for the first time.

(c) Such declaration of estimated tax to be paid the City shall be accompanied by payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before June 30, September 30 and January 31, next following.

(d) Such declaration shall be filed upon a form or forms furnished by, or obtainable from, the Commissioner of Taxation, which form or forms may require a statement that the figures used in making such declaration are the figures used in making the declaration

of the estimate for the federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(e) An amended declaration shall be filed on or before January 31 of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Commissioner of Taxation, if it appears that the original or amended declaration made for the preceding year underestimated the taxpayer's income by twenty percent (20%) or more. At such time a payment which, together with prior payments, is sufficient to pay the taxpayer's entire estimated liability, shall be made. If upon the filing of the return required by Section 191.05, it appears that the taxpayer did not pay eighty percent (80%) of his/her tax liability, as shown on such return, on or before January 31, or the date fixed by regulation, whichever is applicable, the difference between eighty percent (80%) of such taxpayer's tax liability and the amount of estimated tax he/she actually paid on or before January 31, or the date fixed by regulations, whichever is applicable, shall be subject to the interest and penalty provisions of Section 191.10; however, any taxpayer whose declared tax is equal to or greater than the tax paid in the previous year shall not be assessed any interest or penalty for any increased taxes found to be due in the current year.

(f) Such declaration shall indicate that the estimated tax is being withheld under the provisions of Section 191.06 or is being paid to another municipality under a similar chapter.

(g) Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within four months after the start of each fiscal year or period, accompanied by a payment of at least one-fourth of the estimated annual tax shown due thereon, and shall make quarterly payments each three months thereafter.

(h) On or before April 30 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 191.05.

(Ord. 16-93. Passed 7-6-93.)

191.071 NOTICE OF SUBCONTRACTOR.

(a) As used herein, a "subcontractor" is one who has entered into a contract, expressed or implied, for the performance of an act with the person who has already contracted for its performance.

(b) It shall be the responsibility of anyone who engages a subcontractor to perform work within the City to notify the City in writing, on a form approved by the Tax Administrator, the subcontractor's name, address, scope of work, and anticipated payment as set forth herein.

(c) Anyone who engages a subcontractor to perform work within the City and does not comply with the provisions of division (b) of this section shall, along with the

subcontractor, be responsible to the City for payment of tax due the City by the subcontractor as required by this chapter.
(Ord. 20-07. Passed 8-20-07.)

191.08 DUTIES OF THE COMMISSIONER OF TAXATION.

(a) The Commissioner of Taxation shall collect and receive the tax imposed by this chapter in the manner prescribed by this chapter from the taxpayers. He/she shall keep an accurate record for a minimum of five years showing the amount received by him/her from each taxpayer required to file a declaration and/or make a return and the date of such receipt.

(b) The Commissioner is hereby charged with the enforcement of the provisions of this chapter, and is hereby 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 administration, interpretation and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Commissioner of Taxation shall fix the amount of tax actually due the City from the taxpayer and shall send to such taxpayer by certified mail a written statement showing the amount of tax so fixed, together with interest and penalties hereon, if any.

(d) 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/she 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/her 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 191.10 and 191.11 shall apply.
(Ord. 16-93. Passed 7-6-93.)

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

(a) The Commissioner of Taxation, 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 subject to the tax for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Commissioner of Taxation, or his/her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Commissioner of Taxation is hereby authorized to order any person to appear at the office of the Commissioner and examine any 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/she believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal of such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Commissioner of Taxation authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 191.99.

(d) Any information gained as a 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 chapter shall be deemed guilty of a misdemeanor of the first degree, and shall be subject to a fine or penalty up to one thousand dollars (\$1,000), or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

(e) As used in this section, "official purposes" means a disclosure to an employee of the Office or Department of Taxation, a member or employee of the Board of Review or an employee of the Federal Internal Revenue Service, and disclosure to any other person shall be prima facie unlawful and a violation of this section.

(Ord. 16-93. Passed 7-6-93.)

191.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof.

(b) 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: one and one-half percent (1-1/2%) per month or fraction thereof.

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

(3) The minimum penalty for failure to file an annual return shall be twenty- five dollars (\$25.00).

(c) Upon recommendation of the Commissioner of Taxation, the Board of Review may abate penalty or interest, or both, and upon an appeal from the refusal of the Commissioner to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

(Ord. 16-93. Passed 7-6-93.)

191.11 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectable, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time of payment of any tax due hereunder, provided, however, in those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal Statute of Limitation, the period within which an additional assessment may be made by the Commissioner of Taxation shall be three years from the time of the final determination of the federal tax liability. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the time of payment thereof, or within three years after final determination of the federal tax liability.

(Ord. 16-93. Passed 7-6-93.)

191.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Law Director, City Manager, Finance Director, President of Council and chairman of the Finance Committee is hereby created. All rules and regulations and amendments or changes thereto, which are adopted by the Commissioner of Taxation under the authority conferred by this chapter, shall be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Finance Director and shall be open to public inspection.

(b) The Law Director shall be chairman of the Board of Review, and the Finance Director shall serve as secretary thereof. 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.

(c) All hearings by the Board may be conducted privately and the provisions of Section 191.09 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.

(d) Any person dissatisfied with any ruling or decision of the Commissioner of Taxation which is made under the authority conferred by this chapter may appeal therefrom to the Board within thirty days from the announcement of such ruling or

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

(e) Any person dissatisfied with any ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction within thirty days from the announcement of such ruling or decision.
(Ord. 16-93. Passed 7-6-93.)

191.13 ALLOCATION OF FUNDS.

All funds collected under this chapter shall be deposited in the General Fund.
(Ord. 16-93. Passed 7-6-93.)

191.14 MUNICIPAL INCOME TAX CREDIT.

A resident of the City of Painesville who has paid a municipal income tax to another municipality shall, upon satisfactory proof of such payment, be allowed a credit for such tax payment. The credit shall not exceed the tax assessed by this chapter on the same income.
(Ord. 16-93. Passed 7-6-93.)

191.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, 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 hereunder are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 191.10 and 191.11.

(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 191.05 as though the same were continuing.
(Ord. 16-93. Passed 7-6-93.)

191.99 PENALTY.

(a) Any taxpayer or person who:

(1) Fails, neglects or refuses to make any return or declaration required by this chapter; or

(2) Makes any incomplete, false or fraudulent return; or

(3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or

(4) Fails, neglects or refuses to withhold the tax from his/her employees or remit such withholding to the Commissioner of Taxation; or

(5) Refuses to permit the Commissioner or any duly authorized agent or employee to examine his/her books, records, papers and all tax records or documentation to support earnings and/or income of a taxpayer; or

(6) Fails to appear before the Commissioner and to produce his/her books, tax records, papers or documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Commissioner; or

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

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

(9) Attempts to do anything whatever to evade the payment of the whole or any part of the tax, penalties or interest imposed by this chapter, shall be guilty of a misdemeanor of the first degree, and shall be subject to a penalty up to one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

(b) All prosecutions under this section shall be commenced within the time specified in Ohio R.C. 718.06.

(c) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him/her from making any information return, return or declaration, from filing such form, or from paying the tax, except where exempted by Rule 1-90, promulgated 5.21.90.
(Ord. 16-93. Passed 7-6-93.)