

ORDINANCE NO. 2008-64

Introduced By: Council as a Whole

AN ORDINANCE AMENDING SECTION 890.03 PART (a) OF THE CODIFIED ORDINANCES PERTAINING TO IMPOSITION OF TAXES TO CORRECT CLERICAL ERROR AND DECLARING AN EMERGENCY

WHEREAS: Section 890.03(a) of the Codified Ordinances of the City of University Heights was inadvertently modified in part when taxes on lottery winnings was imposed.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, OHIO:

Section 1. That section 890.03 (a) of the Codified Ordinances of the City of University Heights is hereby amended to read as follows:

890.03 (a) - Imposition of Taxes,

On all salaries, wages, commissions and other compensation earned on and after January 1, 1976, by residents of the City for work done or services performed or rendered ~~within the City~~. Other compensation includes, but is not limited to income from gaming, wagering, lotteries, and schemes of chance for which the Internal Revenue Service requires either a 1099-MISC form or a W-2G form to be issued.

Section 2. That the Clerk of this Council be, and she is hereby directed to certify a copy of this Ordinance to the Regional Income Tax Agency.

Section 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements.

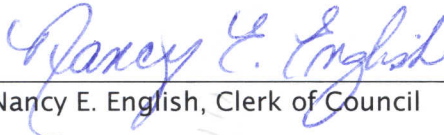
Section 4. This Ordinance constitutes an emergency measure for the immediate preservation of public peace, health and safety of the citizens of the City of University Heights and for the additional reason that this legislation is required to immediately correct a clerical error, and provided it receives the affirmative vote of not less than five (5) members of Council, it shall take effect immediately upon its passage and approval of the Mayor, otherwise, it shall become effective at the earliest time allowed by law.



Beryl E. Rothschild, Mayor

First Reading: November 17, 2008

November 17, 2008

Passed: _____

Attest: 
Nancy E. English, Clerk of Council

Approved
as to Form: 
Kenneth J. Fisher, Director of Law

CHAPTER 890

Income Tax

- 890.01 Purpose.
- 890.02 Definitions.
- 890.03 Imposition of income tax.
- 890.04 Effective period.
- 890.05 Determination of allocation of tax.
- 890.06 Exemptions.
- 890.07 Returns.
- 890.08 Payment of tax on filing of returns.
- 890.09 Collection at source.
- 890.10 Declarations of income not collected at source.
- 890.11 Filing of declaration.
- 890.12 Form of declaration.
- 890.13 Payment to accompany declaration.
- 890.14 Annual return.
- 890.15 Extension of time.
- 890.16 Interest and penalties.
- 890.17 Collection of unpaid taxes; refunds.
- 890.18 Tax credit.
- 890.19 Disbursement of funds collected.
- 890.20 Duties of Income Tax Administrator.

- 890.21 Board of Review.
- 890.22 Severability.
- 890.23 Collection of tax after termination of chapter.
- 890.99 Penalty.

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

State income taxes - see Ohio R.C. Ch. 5747

890.01 PURPOSE.

To provide funds for the purposes of general Municipal operation, maintenance of equipment, extension, enlargement and improvement of Municipal services and facilities, and capital improvements of the City there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on the net profits as hereinafter provided.

(1982 Code, § 181.01) (Ord. 68-61. Passed 6-17-1968.)

890.02 DEFINITIONS.

For the purpose of this chapter the terms, phrases, words and their derivatives shall have the meanings ascribed to them herein. The singular includes the plural, and the masculine includes the feminine and the neuter.

(a) "Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the city income tax.

(b) "Association" means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

(c) "Board of Review" means the Board created by and constituted as provided in Section 890.21 hereof.

(d) "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.

(e) "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.

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

(g) "Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any 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.

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

(i) "Fundamental change" means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations, mergers, consolidations, acquisitions, transfer or change in identity or form of organization.

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

(k) "Manager" means any of the employers, officers, responsible persons, employees having control or supervision, and employees charged with the responsibility for filing the return, paying taxes, or otherwise complying with this chapter.

(l) "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.

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

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

(o) "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.

(p) "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 an carrying on any business activity individually or through one or more of his or her regular employees regularly in attendance.

(q) "Resident " means any individual domiciled in the City.

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

(s) "Taxable income" means wages, salaries and other compensation paid by an employer or employers 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. Other compensation includes, but is not limited to, income from gaming, wagering, lotteries, and schemes of chance for which the Internal Revenue Service requires either a 1099-MISC form or a W-2G form to be issued.

(t) "Taxable year" means the calendar year, or the fiscal 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.

(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.

(1982 Code, § 181.02) (Ord. 66-95. Passed 12-27-1966; Ord. 85-12. Passed 3-4-1985; Ord. 2004-07. Passed 2-17-2004.)

890.03 IMPOSITION OF INCOME TAX.

An annual tax for the purposes specified in Section 890.01 hereof shall be imposed on and after January 1, 1976, at the rate of 2½% per annum upon the following:

(a) On all salaries, wages, commissions and other compensation earned on and after January 1, 1976, by residents of the City for work done or services performed or rendered within the City. Other compensation includes, but is not limited to, income from gaming, wagering, lotteries, and schemes of chance for which the Internal Revenue Service requires either a 1099-MISC form or a W-2G form to be issued.

(b) On all salaries, wages, commissions and other compensation earned on and after January 1, 1976, by nonresidents of the City for work done or services performed or rendered within the City.

(c) (1) On the portion attributable to the City on the net profits earned on and after January 1, 1976, and all resident unincorporated business 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.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1976, 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 by the City.

(d) (1) On the portion attributable to the City of the net profits earned on or after January 1, 1976, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1976, 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 by the City.

(e) On the portion attributable to the City of the net profits earned on and after January 1, 1976, of all corporations derived from sales made, work done, 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.

(Ord. 71-88. Passed 12-20-1971; Ord. 75-69. Passed 7-28-1975; Ord. 2004-07. Passed 2-17-2004; Ord. 2006-38. Passed 7-17-2006; Ord. 2006-42. Passed 8-8-2006.)

(f) On the portion attributable to this Municipality pursuant to the terms of this chapter and including:

(1) Royalty income, or income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer. Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000), it shall be prima facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

(2) The employer's income derived from finance and carrying charges associated with their consumer's accounts receivable.

(1982 Code, § 181.03) (Ord. 85-12. Passed 3-4-1985.)

890.04 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1976.

(1982 Code, § 181.04) (Ord 75-69. Passed 7-28-1975.)

890.05 DETERMINATION OF ALLOCATION OF TAX.

(a) Method of Determination. In the taxation of income which is subject to the City income taxes 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:

(1) The average net book value to 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.

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.

(3) 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.

(b) Sales Made in the City. As used in division (a)(3) herein "sales made in the City" means:

(1) 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.

(2) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside of 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.

(3) 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.

(c) Total Allocation. Add together the percentages determined in accordance with divisions (a) (1), (2) and (3) herein 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 in deriving such total in order to obtain the business allocation percentage referred to in division (a) herein. A factor is applicable even though it may be allocable entirely in or outside the City.

(d) Rentals. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 890.03 (c), (d) and (e), only if and to the extent that the rental ownership, management or operations 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 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, 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 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 two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he or she 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 two hundred fifty dollars (\$250.00) 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 two hundred fifty dollars (\$250.00) per month.

(e) Operating Loss-Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1976 allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City, until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of 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.

(1982 Code, § 181.05) (Ord. 66-95. Passed 12-27-1966.)

890.06 EXEMPTIONS.

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 eighteen 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.

(i) Gains from involuntary conversion, cancellation of indebtedness, 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.

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the 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.

(1982 Code, § 181.06) (Ord. 66-95. Passed 12-27-1966.)

890.07 RETURNS.

(a) When Return Required to be Made. Any taxpayer who has income as herein defined shall make and file a return on or before April 30 each year, except taxpayers with a fiscal year or other period different from the calendar year, in which event such return shall be due within four months from the end of such fiscal year or period.

(Ord. 85-12. Passed 3-4-1985.)

(b) 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:

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

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

(3) Such other pertinent statements, information returns, or other information as the Administrator may require.

(c) 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 not to exceed six months, or one 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.

(d) Consolidated Returns.

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

(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 a portion only of its total business, the Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds that 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 or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the City.

(e) Amended Returns.

(1) 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 890.17 and 890.18 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.

(2) 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.

(1982 Code, § 181.07) (Ord.66-95. Passed 12-27-1966.)

890.08 PAYMENT OF TAX ON FILING OF RETURNS.

(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:

(1) Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 890.09 hereof or,

(2) Where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 890.10 hereof or,

(3) Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 890.18, 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.

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

(Ord. 71-88. Passed 12-20-1971.)

(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager shall be jointly and severally liable for the payment of the taxes, interest and penalty.

(1982 Code, § 181.08) (Ord. 85-12. Passed 3-4-1985.)

890.09 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 the payment of such salary, wages, commission or other compensation, the tax of 1½ % per annum of the gross salaries, wages, commissions or other compensation due by the employer to such employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Such returns shall be on a form or forms prescribed 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.

(c) 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 or her employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him or her exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this Chapter.

(Ord. 71-88. Passed 12-20-1971.)

(e) (1) Every manager is deemed to be a trustee of this Municipality in the collection and holding of the tax required to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to this Municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to this Municipality, whether or not the employer actually remits the tax to this Municipality, for purposes of determining employee payments or credits.

(2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employee's or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

(1982 Code, § 181.09) (Ord. 85-12. Passed 3-4-1985.)

890.10 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the City, less the tax credit allowed in Section 890.18 hereof, unless such taxpayer anticipates that such tax will be fully withheld within the City, and any income earned outside of the City will be fully taxed at the same or higher rate of tax in another municipality. If the estimated tax for the

current year, less the tax to be withheld and less such tax credit, amount to not more than \$50.00, no declaration or payment of estimated tax is required.

(1982 Code, § 181.10) (Ord. 95-40. Passed 6-5-95.)

890.11 FILING OF DECLARATION.

(a) The declaration required by Section 890.10 shall be filed on or before April 30 of each year during the effective period set forth in Section 890.04 or within four months of the date the taxpayer becomes subject to the tax for the first time.

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

(1982 Code, § 181.11) (Ord. 66-95. Passed 12-27-1966.)

890.12 FORM OF DECLARATION.

(a) The declaration required by Section 890.10 hereof shall be filed upon a form furnished by or obtainable from the Administrator. As provided in Section 890.10 hereof, credit shall be taken for City tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 890.18 hereof.

(b) 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.

(1982 Code, § 181.12) (Ord. 71-88. Passed 12-20-1971.)

890.13 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh (7th) and tenth (10th) 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.

(1982 Code, § 181.13) (Ord. 71-88. Passed 12-20-1971.)

890.14 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 890.08 hereof. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return 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.

(1982 Code, § 181.14) (Ord. 71-88. Passed 12-20-1971.)

890.15 EXTENSION OF TIME.

The Administrator may extend the time of filing any return required, the making of any payment or performing any other act required by Sections 890.08 to 890.15 for a period not to exceed six months beyond the original required date.

(1982 Code, § 181.15) (Ord. 66-95. Passed 12-27-1966.)

890.16 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this Chapter and remaining unpaid after they become due shall bear interest at the rate of 12% per annum.

(b) Penalties on Unpaid Tax. In addition to interest as provided in division (a) herein, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(1) For failure to pay taxes or estimated taxes due, other than taxes withheld: 12% per annum, but not less than \$10.00.

(2) For failure to remit taxes withheld from employees: 10 % per month or fraction thereof, but accumulated penalties shall not exceed 50 % upon any unpaid amount and shall not be less than \$10.00.

(Ord. 80-5. Passed 1-21-1980.)

(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 three months after a final determination of the federal tax liability.

(Ord. 66-95. Passed 12-27-1966.)

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

(1982 Code, § 181.16) (Ord. 71-88. Passed 12-20-1971.)

890.17 COLLECTION OF UNPAID TAXES; REFUNDS.

(a) 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 three 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 one year from the time of the final determination of the federal tax liability.

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

(c) Minimum Amounts. Amounts of less than \$1.00 shall not be collected or refunded.

(1982 Code, § 181.17) (Ord. 66-95. Passed 12-27-1966.)

890.18 TAX CREDIT.

(a) When the taxable income of a resident is subject to a municipal income tax in another municipality on the same income taxable under this Chapter 890 of the Codified Ordinances, such resident(s) shall be allowed a 1.00% credit of the tax paid to such other municipality from and after January 1, 2007.

(Ord. 80-62. Passed 9-15-1980; Ord. 2004-40. Passed 9-27-2004; Ord. 2006-42. Passed 8-8-2006.)

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event such resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he or she shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

(1982 Code, § 181.18) (Ord. 71-88. Passed 12-20-1971.)

890.19 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 division (a) herein shall be deposited in the general fund for Municipal purposes.

(1982 Code, § 181.19) (Ord. 66-95. Passed 12-27-1966.)

890.20 DUTIES OF INCOME TAX ADMINISTRATOR.

(a) Duty to Receive Tax Imposed. The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; keep an accurate record thereof; and report all moneys so received.

(b) Duty to Enforce Collection. The Administrator shall enforce payment of all taxes owing to the City; keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld; and show the dates and amounts of payments thereof.

(c) Authority to Make and Enforce Regulations. 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 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.

(d) 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 or 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 or 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 890.17 and 890.99 of this chapter shall apply.

(Ord. 66-95. Passed 12-27-1966.)

(e) (1) Preparation of return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor but consents to disclose all information necessary to the preparation thereof, then the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person.

(2) Execution of return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor, or makes, willful or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he or she can obtain through testimony or otherwise.

(3) Assessment of a taxpayer by Administrator. The Administrator may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by this chapter and which is due and owing. Such assessment shall be made by the Administrator's issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period, and the amount of the assessment.

(4) Status of executed returns and assessments. Any return executed by or any assessment made by the Administrator pursuant to this chapter shall be prima facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

(5) Limitation of prosecutions. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this chapter.

(Ord. 85-12. Passed 3-4-1985.)

(f) Authority to Make Investigations. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or 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 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.

(g) Authority to Compel Productions of Records. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him or her 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information pertinent to such inquiry.

(h) 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 a violation of this chapter, punishable as provided in Section 890.99 hereof.

(i) 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, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to such 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.

(j) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his or her tax liability for a period of five years from the date his or her return is filed, or the withholding taxes are paid.

(1982 Code, § 181.20) (Ord. 66-95. Passed 12-27-1966.)

(k) Authority in Contract for Central Collection Facilities. The City having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance No. 71-35, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency", the Board of Trustees of such Regional Income Tax Agency is authorized to administer and enforce the provisions of this Chapter as the agent of the City, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of the agency through the Administrator of such agency. Provided, however, the Administrator of the agency shall

have no authority to abate penalties or interest provided for in Sections 890.16 (a) and (b) hereof.

(Ord. 71-88. Passed 12-20-1971.)

(1) Assignment of Administrator Authority. In the event that the Mayor 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 division (k) herein then all or part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation.

(Ord. 66-95. Passed 12-27-1966.)

(m) Notice to Taxpayers. Notice shall be mailed to the taxpayer's last known address prior to instituting any civil or criminal court proceedings as authorized in this chapter.

(1982 Code, § 181.20) (Ord. 85-12. Passed 3-4-1985.)

890.21 BOARD OF REVIEW.

(a) Established. A Board of Review consisting of the Mayor or someone designated by him or her, the Director of Law or someone designated by him or her, and an individual selected by Council, is hereby created.

(b) Duty to Approve Regulations and to Hear Appeals. 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 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) 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 the Board of Review within 30 days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(1982 Code, § 181.21) (Ord. 66-95. Passed 12-27-1966.)

890.22 SEVERABILITY.

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.

(1982 Code, § 181.22) (Ord. 66-95. Passed 12-27-1966.)

890.23 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 and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 890.17 and 890.99.

(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 890.07(a) and 890.09 as though the same were continuing.

(1982 Code, § 181.23) (Ord. 66-95. Passed 12-27-1966.)

890.99 PENALTY.

(a) No person 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) Intentionally or willfully 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 or her true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence and date thereof; or

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

(11) Attempt any action or omission whatever to avoid the payment of the whole or part of the tax, penalties or interest imposed by this chapter.

(Ord. 85-12. Passed 3-4-1985.)

(b) Whoever knowingly violates any provision of division (a) hereof is guilty of a misdemeanor of the first degree for each offense, and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both.

(1982 Code, § 181.99)