

191.01 PURPOSE, PERIOD AND RATE.

(a) There shall be and is hereby levied an annual tax on and after January 1, 1997 at the rate of one percent (1.0%) upon those classes of earnings and income set forth in Section [191.03](#) to provide revenues for expenditure on capital improvements, capital outlays and for general municipal operation.

(b) For the period of January 1, 2014 through December 31, 2016 there shall be and is hereby levied a tax upon those classes of earnings and income set forth in Section [191.03](#) in addition to the tax, if any, levied by the first paragraph of this section, at the rate of one-half of one percent (0.5%) for the purpose of providing revenues for the operation of the Department of Public Safety which includes the Division of Police, the Division of Fire and the Emergency Medical Rescue Service. (Ord. 13-09. Passed 11-20-13.)

191.02 DEFINITIONS.

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

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

(b) "Board of Adjudication" means the Board created by and constituted as provided in Section [191.12\(a\)](#).

(c) "Board of Tax Appeals" means the Board created by and constituted as provided in Section [191.12\(b\)](#).

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

(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, governmental body, unit or agency, or any other entity, whether or not organized for profit having a place of business or doing business within the City of Eaton and who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

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

(i) "Gross receipts" means the total income from any source whatsoever required to be included in the return.

(j) "Net profits" means the net gain from the operations of a business, profession, enterprise or other activity, excluding capital gains and losses after provision for all ordinary and necessary expenses, paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, adjusted to the requirements of this chapter.

(k) "Non-resident" means any individual who is not a resident as herein defined.

(l) "Non-resident unincorporated business entity" means an unincorporated business entity not having a place of business within the City of Eaton.

(m) "Other activity" means any undertaking, not otherwise specifically defined herein which is normally entered into for profit, including, but not limited to, rental of real and personal property and a business conducted by a trust or guardianship estate.

(n) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any section prescribing and imposing a penalty, "person" includes an officer or employee of a corporation, or member or employee of an association, who as such officer, employee or member is under a duty to perform the act in respect of which the violation occurs.

(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 of Eaton. Any person who maintains a space of abode within the City for a total of 183 days or more within any twelve month period shall be deemed a resident.

(q) "Resident unincorporated business entity" means an unincorporated business entity having a place of business within the City of Eaton.

(r) "Taxable income" means gross wages, salaries, and other compensation paid by an employer or employers before any deductions, other than ordinary and necessary business expenses in the same manner as provided by the Internal Revenue Code, and/or net profits as herein defined.

(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. Unless approved by the Finance Director, the taxable year of a wage earner shall be a calendar year.

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

The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 96-14. Passed 11-18-96.)

191.03 IMPOSITION OF TAX.

(a) Subject to the provision of Section [191.15](#), the annual tax in the amount, for the period of time, and for the purpose specified in Section [191.01](#) shall be imposed on the following:

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

(2) On all salaries, wages, commissions and other compensation received during the effective period of this chapter by non-residents for work done or services performed or rendered in the City of Eaton.

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

B. On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the City of Eaton upon which the tax was not paid by the entity.

(4) A. On the portion attributable to the City of Eaton of the net profits earned and accrued or received during the effective period of this chapter of all non-resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in the City of Eaton, whether or not such association or other unincorporated business entity has an office or place of business in the City of Eaton.

B. On the portion of the distributive share of the net profits earned and accrued or received during the effective period of this chapter of a resident partner or owner of a non-resident association or other unincorporated business entity not attributable to the City of Eaton on which the tax was not paid by the entity.

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

(b) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City of Eaton, in the absence of actual records thereof, shall be determined as follows:

(1) Multiply the entire net profits by a business allocation percentage to be the average ratio of:

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 of Eaton 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. Wages, salaries and other compensation paid or accrued during the taxable period to persons employed in the business or profession for services performed in the City of Eaton to wages, salaries, and other compensation paid or accrued 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 of Eaton 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.

(2) As used in subsection (b)(1)C. hereof, “sales made in the City of Eaton” means:

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

B. All sales of tangible personal property which is delivered within the City of Eaton regardless of where title passes even though transported from a point outside the City of Eaton if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Eaton 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 of Eaton to purchasers outside the City of Eaton 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) For the purposes of this section, the taxable base shall be determined in accordance with federal tax interpretations, when applicable, and with the accounting method used by the taxpayer for federal income taxes adjusted to the requirements of this chapter.

(d) Consolidated Returns.

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

(2) Allocation of income and deductions between related taxpayers; 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 of Eaton constituting a portion only of its total business, the Finance Director may require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Eaton. If the Finance Director finds net profits are not properly allocated to the City of Eaton 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 of Eaton.

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

(1) Military pay or allowances of members of the armed forces of the United States, or upon the net profits 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.

(2) 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.

(3) 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.

(4) 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.

(5) Personal earnings of all persons under eighteen years of age.

(6) Interest and dividends from intangible property.

(7) 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 of Eaton 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).

(8) 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 State or their political subdivisions to impose net income taxes on income derived from interstate

commerce.

(9) 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 of Eaton to impose net income taxes.

(10) Core benefit credits or payments provided by an employer to an employee which are treated as tax-free dollars by applicable IRS regulations, except that contributions by an individual to a retirement or deferred compensation plan are not to be excluded from taxable income. However, due to the variety of such benefit and retirement plans, determination of the taxable status will be made on an individual basis after a determination request is submitted by the employer.

(Ord. 96-14. Passed 11-18-96.)

191.04 EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation received and shall be levied with respect to the net profits of businesses, professions or other activities earned and accrued or received on or after January 1, 1997.
(Ord. 96-14. Passed 11-18-96.)

191.05 RETURN AND PAYMENT OF TAX.

(a) Each person who engages in business or other activity or whose salary, wage, commission or other compensation is subject to the tax imposed by this Ordinance, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this Ordinance, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period.

(Ord. 14-05. Passed 4-16-14.)

(b) The return shall be filed with the Finance Director on a form or forms furnished by or obtainable upon request from the Finance Director setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation received by him 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 said tax; and

(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 Finance Director may require.

(c) The Finance Director 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 Finance Director 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.

(d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Finance Director the amount of taxes shown as due thereon; provided, however, that credit shall be allowed for:

A. Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of Section [191.06](#); and

B. Any portion of said tax which shall have been paid by the taxpayer pursuant to the provisions of Section [191.07](#); and

C. Credit to the extent allowed by Section [191.14](#) for tax paid to another municipality or county.

(2) Subject to the limitations contained in Section [191.11](#), any taxpayer who has overpaid the amount of tax to which the City of Eaton is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded.

(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 and/or limitations contained in Section [191.11](#). Such amended returns shall be on a form obtainable upon request from the Finance Director. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return without the approval of the Finance Director.

(2) Within three months from the final determination of any federal tax liability affecting the taxpayer's City of Eaton tax liability, such taxpayer shall make and file an amended City of Eaton return showing income subject to the City of Eaton 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.

(f) Information returns, schedules and statements requested to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be deemed to be a violation of this chapter. Provided, however, that the taxpayer shall have ten days after notification by the Finance Director, or his authorized representative, to file the items required by

this paragraph.
(Ord. 96-14. Passed 11-18-96.)

191.06 COLLECTION AT SOURCE.

(a) (1) Each employer shall at the time of the payment of any salary, wage, commission or other compensation, deduct the tax of one and one-half percent (1.5%) for the period beginning January 1, 1997, of the gross salaries, wages, commissions, or other compensation due by said employer to his employees who are subject to the provisions of this chapter. In making such deduction at the time of payment, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be increased to the next full cent and mills less than five shall be dropped. No person shall be entitled to a refund merely because such rounding off of the tax results in an apparent overpayment based on his total earnings. Each employer shall, on or before the last day of each month, make a return and pay to the Finance Director the tax withheld during the preceding month. Provided, however, the Finance Director shall have the authority to approve the filing of returns and payment of the tax withheld on a quarterly basis. In such case, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay to the Finance Director the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Finance Director when it is to the best interest of the City of Eaton to do so.

The Finance Director shall provide, by regulation, the manner in which such approval is to be granted or withdrawn.

(2) The employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax has in fact been withheld.

(3) The employer shall not purposefully underwithhold the required deduction from an employee's pay and is required to reconcile the annual withholding, for the purpose of this tax, with the City or Federal Forms W-2 and W-3. Upon reconciliation, where it is necessary to withhold an additional amount because of inadvertent underwithholding, the employer will withhold the necessary amount prior to the end of the calendar year.

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

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

(d) Each year, beginning with the tax year 1997, each employer shall file, on or before January 31, a withholding return on a form prescribed by and obtainable upon request from the Finance Director, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Rules and Regulations adopted by the Finance Director.

(Ord. 96-14. Passed 11-18-96.)

191.07 DECLARATIONS.

(a) Every person who anticipates the receipt of any taxable income which is not subject to Section [191.06](#), or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section [191.03](#), shall file a declaration setting forth such person's estimated taxable income together with any 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 of Eaton in accordance with Section [191.06](#), such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months after the date the taxpayer becomes subject to the provisions of this chapter.

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

(c) (1) Such declaration shall be filed upon a form furnished by or obtainable upon request from the Finance Director, provided, however, credit shall be taken for the City of Eaton tax to be withheld from any portion of such income to determine the estimated tax due. In accordance with the provisions of Section [191.14](#), credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(2) The original declaration (or any subsequent amendment thereof) may be amended at any time.

(3) An amended declaration must be filed on or before January 31 of the following year, or in the case of a taxpayer on a fiscal year, on or before the date fixed by regulation of the Finance Director if it appears that the original declaration made for such taxable year underestimated the taxpayer's income by thirty percent (30%) 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 seventy percent (70%) of his tax liability, as shown on said return, on or before January 31, or the date fixed by regulations, whichever is applicable, the difference between seventy percent (70%) of said taxpayer's tax liability and the amount of estimated tax actually paid on or before January 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section [191.10](#).

(d) (1) Such declaration of net estimated tax to be paid to the City of Eaton shall be accompanied by a payment of at least one-fourth of the estimated annual tax, less credit, and at least a similar amount shall be paid on or before the last day of the seventh, tenth 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.

(2) Provided, further, however, that the last quarterly payment of estimated tax need not be made if the taxpayer files his final return and pays the balance of the tax due thereon within forty-five days following the end of his taxable year.

(e) On or before the last day of the fourth month of the calendar or fiscal 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 of Eaton shall be paid therewith in accordance with the provision of Section [191.05](#).

(Ord. 96-14. Passed 11-18-96.)

191.08 DUTIES, RESPONSIBILITIES AND AUTHORITY OF THE FINANCE DIRECTOR.

(a) (1) It shall be the duty of the Finance Director, or of any other person or firm designated by Council to work under the direction of the Finance Director, to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate records thereof; and to report daily all monies so received.

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

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

(c) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Finance Director may assess the amount of tax appearing to be due, together with interest and penalties thereon, if any, in the following manner:

(1) General provisions.

A. If the Finance Director determines that any taxpayer subject to the provisions of this chapter has a tax liability for which he has filed an incorrect return and has failed to pay the full amount of tax due, the Finance Director shall issue a proposed assessment showing the amount of tax due, together with any penalty and interest that may have accrued thereon.

1. Such proposed assessment shall be served upon the taxpayer in person or by mailing to his last known address. Proof of mailing furnished by the U.S. Post Office shall be presumptive proof fo receipt thereof by the addressee.

2. A taxpayer may, within fifteen days after the date the proposed assessment was served or mailed, file a written protest with the Finance Director. Within fifteen days after receipt of protest, the Finance Director shall give the protestant an opportunity to be heard; provided further that the Finance Director may extend the date of hearing for good cause shown. After the hearing the Finance Director shall withdraw the assessment or he shall adjust or reaffirm the assessment and it shall then become final. If no protest is filed as herein provided, such proposed assessment shall become final fifteen days after being served.

B. After a proposed assessment becomes final, notice of such final assessment shall be issued and shall be served in the same manner as a proposed assessment.

1. A taxpayer shall have fifteen days after the date the final assessment was served or mailed within which to file written notice of appeal with the Board of Tax Appeals. Such written notice of appeal shall be filed in a sealed envelope plainly marked "Appeal to Board of Tax Appeals" and mailed or delivered to the Finance Director who shall, within five days after receipt thereof, deliver such appeal to the Chairman of the Board of Tax Appeals or, if the Chairman is not available, to the Vice Chairman.

2. The Board of Tax Appeals, upon receipt of a notice of appeal, shall within fifteen days notify the Finance Director thereof who shall forward within fifteen days to the Board, a certified transcript of all actions taken by him with respect to said final assessment. Such transcript shall be open to inspection by the appellant and his counsel.

3. Any taxpayer against whom a final assessment has been issued and who has filed a notice of appeal shall be granted a hearing by the Board of Tax Appeals. At such hearing the appellant and the Finance Director shall be given opportunity to present evidence relating to said final assessment. After the conclusion of such hearing, the Board of Tax Appeals shall affirm, reverse or modify said final assessment and shall furnish a copy of its decision in respect thereof to the appellant and the Finance Director. The appellant's copy of said decision shall be served upon him in the same

manner as herein provided for the serving of assessments.

C. When any taxpayer subject to the provisions of this chapter has filed a return indicating the amount of tax due and has failed to pay said tax to the Finance Director as required by this chapter, the Finance Director need not issue an assessment, but may proceed under the provisions of Sections [191.11](#) and [191.99](#).

(2) Provisions affecting employers.

A. If the Finance Director determines that an employer subject to the provisions of this chapter has failed to file a return for tax withheld and has failed to pay to the Finance Director the full amount of said taxes, the Finance Director shall issue a proposed assessment showing the amount of tax due, together with any penalties and interest that may have accrued thereon, and the provisions of subsections (c)(1)A. and B. hereof shall then apply.

B. If the Finance Director determines that an employer subject to the provisions of this chapter has failed to withhold tax, the Finance Director shall issue a proposed assessment showing the tax due, together with any penalties and interest that may have accrued thereon, and the provisions of subsections (c)(1)A. and B. hereof shall then apply.

C. When an employer subject to the provisions of this chapter has filed a return indicating the amount of tax withheld and has failed to pay said tax to the Finance Director as required by this chapter, the Finance Director may proceed under the provisions of Section [191.11](#) and [191.99](#) and need not issue an assessment as provided in subsections (c)(2)A. and B. hereof.

(d) (1) Any taxpayer or employer who has not filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount thereof within fifteen days after service of such final assessment.

(2) Any taxpayer or employer who has filed a notice of appeal to the Board of Tax Appeals from a final assessment issued against him shall pay the amount determined to be due to the Board of Tax Appeals within fifteen days after the service of his copy of the decision of the Board.

(e) The Finance Director shall have the authority, when requested by the taxpayer and for good cause shown, to extend the time of making and filing any return whenever he deems it necessary to do so, but not to exceed a period of 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.

(f) When an application for deferred payment of tax due is filed by a taxpayer, the Finance Director may authorize partial payments of unpaid taxes when, in his judgment, the taxpayer is unable, due to hardship conditions, to pay the full amount of the tax when due, and when, in his judgment, such deferred payments are the best means of accomplishing the intent of this chapter. Provided, however, that the Finance Director shall not authorize an extension of time for the payment of said taxes due for more than six months beyond the date of the filing of the application. (Ord. 96-14. Passed 11-18-96.)

**191.09 INVESTIGATING AUTHORITY OF THE FINANCE DIRECTOR;
PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) The Finance Director, or any authorized employee, is hereby authorized to examine the books, papers, records and copies of federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Finance Director 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 within ten days following a written request by the Finance Director, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Finance Director is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income 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 copies of federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

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

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except when ordered by a court of competent jurisdiction. Any person or firm divulging such information in violation of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

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

(Ord. 96-14. Passed 11-18-96.)

191.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid ten days after they become due shall bear interest at the rate of one percent (1%) 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 percent (1%) per month or fraction thereof, or ten percent (10%) whichever is greater.

(2) For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof, or ten percent (10%) whichever is greater.

(3) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or has failed to file a declaration on which he has estimated and paid tax equal to or greater than seventy percent (70%) of the actual tax for the year, or has failed to file a final return and pay the total tax on or before the end of the month following the end of his taxable year: ten percent (10%) of the difference between seventy percent (70%) of the actual tax for the year and the amount paid through withholding or declaration.

(4) Except in the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Finance Director when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Finance Director and provided, further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

(d) Upon recommendation of the Finance Director, the Board of Adjudication may abate penalty or interest, or both.

(e) Provided, however, that in no case shall penalty and interest charges be levied when the total of such penalty and interest amounts to less than one dollar (\$1.00).

(f) Any person required to withhold the tax who knowingly fails to withhold such tax, or pay over by the end of the calendar year such tax, or knowingly attempts in any manner to evade or defeat such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not withheld, or not paid over. No other penalty under this section shall be applied to any offense to which this penalty is applied.

(g) Interest, but no penalty, will be assessed where an extension has been granted by the Finance Director and the final tax paid within the period as extended.

(Ord. 96-14. Passed 11-18-96.)

191.11 COLLECTION OF UNPAID TAXES AND REFUND OF OVERPAYMENTS.

(a) In addition to any criminal penalties which may be imposed pursuant to Section [191.99](#), all taxes imposed by Section [191.03](#) shall be collectible, together with any interest and penalties thereon, by civil suit. Except in the case of fraud, omission of twenty-five percent (25%) or more 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 the return was due or filed whichever is later, 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 Finance Director shall be one year from the time of the final determination of the federal tax liability.

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

(c) Additional amounts of less than one dollar (\$1.00) shall not be refunded or assessed unless such assessment results from income which the taxpayer has failed to report.

(Ord. 96-14. Passed 11-18-96.)

191.12 BOARD OF ADJUDICATION AND BOARD OF TAX APPEALS.**(a) Board of Adjudication.**

(1) Pursuant to Section [8.12](#) of the Charter of the City of Eaton, a Board of Adjudication, consisting of the City Manager, Law Director, and the Chief of Police has been created. The City Manager shall serve as Chairman and the Law Director shall serve as Secretary. A majority of the members of the Board shall constitute a quorum.

(2) The Board shall adopt its own procedural rules and shall keep a record of its proceedings. All hearings of the Board shall 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 presented to the Board of Adjudication.

(3) The Board shall have the authority, upon request of the Finance Director, to modify in whole or in part, any assessment of tax, penalty and/or interest, required to be made by this chapter. In addition, the Board may authorize the Finance Director to accept partial payments for a period in excess of the time authorized in Section [191.08](#).

(b) Board of Tax Appeals.

(1) Pursuant to Section [8.12](#) of the Charter of the City of Eaton, a Board of Tax Appeals, consisting of three representative citizens of the City of Eaton, not otherwise employed by the City of Eaton, to be appointed by the Mayor of the City of Eaton, approved by Council, has heretofore been created.

Succeeding members shall be appointed for a term of three years. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing 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.

(2) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such assessment, ruling or decision, or any part thereof, made by the Finance Director from which an appeal has been filed as provided in Section [191.08](#).

(Ord. 96-14. Passed 11-18-96.)

191.13 ALLOCATION OF FUNDS.

Except as provided in the second paragraph of Section [191.01](#), the income tax funds collected under the provisions of this chapter shall be allocated:

“Not less than sixty percent (60%) for capital improvements, after the deduction of necessary collection expenses.”

(Ord. 96-14. Passed 11-18-96.)

191.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR COUNTY.

(a) Where a resident of the City of Eaton is subject to a municipal or county income tax in another municipality or county, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the highest rate to which he is subject.

(b) Every individual taxpayer who resides in the City of Eaton who received net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the City of Eaton, if it be made to appear that he has paid a municipal or county income tax on the same income taxable under this chapter to another municipality or county, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality or county. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or county where such tax is paid.

(c) A claim for refund or credit under this section shall be made in such manner as the Finance Director may by regulation provide.

(Ord. 96-14. Passed 11-18-96.)

191.15 SAVINGS CLAUSE.

This chapter shall not apply to any person, firm, corporation, or income, as to whom, or as to which it is beyond the power of Council to impose the tax herein provided for. If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 96-14. Passed 11-18-96.)

191.16 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 said taxes levied hereunder 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 [191.11](#) and [191.99](#).

(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 [191.05](#) and [191.06](#) as though the same were continuing.
(Ord. 96-14. Passed 11-18-96.)

191.99 PENALTY.

- (a) 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) Knowingly fail or refuse to pay the tax, penalties or interest imposed by this chapter; or
 - (4) Knowingly fail or refuse to withhold the tax from his employees and remit such withholding to the Finance Director; or
 - (5) Refuse to permit the Finance Director or any duly authorized agent or employee to examine his or his employer's books, records, papers and copies of federal income tax returns relating to the income or net profits of a taxpayer; or
 - (6) Fail to appear before the Finance Director and to produce his or his employer's books, records, papers or copies of the federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Finance Director; or
 - (7) Refuse to disclose to the Finance Director 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 Finance Director; or
 - (9) Attempt to do anything whatever to avoid payment of the whole or any part of the tax, penalties or interest imposed by this chapter:
 - A. Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.
- (b) (1) Any person subject to the provisions of Sections [191.01](#) through [191.16](#), and [191.99](#), inclusive, who has failed to file or has filed an incorrect return or has failed to pay the full amount of tax due, shall not be deemed to have committed an offense punishable under the provisions of this section until the assessment issued against him under the provisions of Section [191.08](#) has become due and payable.
- (2) Any person who filed a return under the provisions of Sections [191.01](#) through [191.16](#), and [191.99](#), inclusive, indicating the amount of tax due, and has failed to pay said tax, together with any penalties or interest that may have accrued thereon, shall not be deemed to have committed an offense for having knowingly failed to pay the tax, penalties or interest due as provided in subsection (a)(3) hereof, until the date of the filing of such return.
- (c) "Person" as used in this section, shall, in addition to the meaning prescribed in Section [191.02](#), include in the case of an association or corporation not having any partner, member or officer within the City of Eaton, any employee or agent of such association or corporation who can be found within the corporate limits of the City of Eaton.
- (d) All prosecutions under this section must be commenced within the time limit as now or hereafter may be provided by the applicable sections of Ohio Revised Code for the prosecution of violations of municipal income tax ordinances.
- (e) The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such forms, or from paying the tax.
- (Ord. 96-14. Passed 11-18-96.)