

## § 890.01 PURPOSES.

(a) To provide funds for the purposes of general municipal functions of the city there shall be and is hereby levied a tax on all income, salaries, wages, commissions and other compensations, and on net profits, at the rate of 1% per annum as hereinafter provided.

(b) In addition to the tax levied in division (a) hereof, an additional tax to provide funds for the replacement and/or repair of various water facilities, with necessary appurtenances, the construction and repair of various streets and roadways throughout the municipality with necessary appurtenances, and the construction and repair of various storm and sanitary sewer systems with necessary appurtenances, shall be and is hereby levied on all income, salaries, wages, commissions and other compensations, and on net profits, at the rate of 0.5% per annum from July 1, 1995, and thereafter, as hereinafter provided.

(c) In addition to the tax levied in divisions (a) and (b) hereof, an additional tax to provide funds for all capital and operating expenses of the Department of Public Safety and the Service Department shall be and is hereby levied on all income, salaries, wages, commissions and other compensations, and on net profits, at the rate of 0.5% per annum from July 1, 1989, and thereafter, as hereinafter provided.

(Ord. 2007-217, passed 10-15-2007)

## § 890.02 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. The singular shall include the plural and the masculine shall include the feminine and the neuter.

(a) **ADJUSTED FEDERAL TAXABLE INCOME.** A C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute **ADJUSTED FEDERAL TAXABLE INCOME** as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under R.C. § 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

(b) **ADMINISTRATOR** or **INCOME TAX ADMINISTRATOR.** The individual designated to administer and enforce the provisions of the city income tax.

(c) **ASSOCIATION.** Any partnership, limited partnership, limited liability company or any other form of unincorporated enterprise, including S corporations as defined in the Federal Tax Code, 26 U.S.C. § 1361.

(d) **BOARD OF REVIEW.** The Board created by and constituted as provided in § [890.20](#).

(e) **BUSINESS.** 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.

(f) **CITY.** The City of Solon, Ohio.

(g) **CORPORATION.** A corporation, but not including S corporations as defined in the Federal Tax Code, 26 U.S.C. § 1361, or joint stock association organized under the laws of the United States, the state, or any other state, territory or foreign country or dependency.

(h) **DOMICILE.** The permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one **DOMICILE**.

(i) **EMPLOYEE.** One who works for income, wages, salary, commission or other type of compensation in the service and under the control of an employer.

(j) **EMPLOYER.** An individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on income, salary, wage, commission or other basis of compensation.

(k) **FISCAL YEAR.** An accounting period of 12 months or less ending on any day other than December 31.

(l) **GENERIC FORM.** An electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds, that contain all the information required on Solon's regular tax return, estimated payment and refund request forms, and are in a similar format that will allow processing of the generic forms without altering Solon's procedures for processing forms.

(m) **GROSS RECEIPTS.** The total revenue derived from sales, work done or service rendered.

(n) **INCOME.** All monies and compensation in any form, subject to limitations imposed by R.C. Chapter 718, derived from any source whatsoever, including, but not limited to:

(1) All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of Solon;

(2) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Solon; and

(3) The portion attributable to the city of the net profits of all businesses, associations, professions, corporations or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Solon.

(o) **NET PROFITS.** For taxable years prior to 2004, 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 (i.e., cash or accrual) 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. For taxable years 2004 and later, see **ADJUSTED FEDERAL TAXABLE INCOME**.

(p) **NONRESIDENT.** An individual domiciled outside the City of Solon.

(q) **NONRESIDENT UNINCORPORATED BUSINESS ENTITY.** An unincorporated business entity not having an office or place of business within the City of Solon.

(r) **PERSON.** 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.

(s) **PLACE OF BUSINESS.** 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 or her regular employees regularly in attendance.

(t) **QUALIFYING WAGE.** Wages as defined in IRC § 3121(a), without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. **QUALIFYING WAGE** represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of **QUALIFYING WAGE** shall not be taxed by a municipality. This definition is effective January 1, 2004, for taxable years 2004 and later.

(u) **RESIDENT.** An individual domiciled in the City of Solon.

(v) **RESIDENT UNINCORPORATED BUSINESS ENTITY.** An unincorporated business entity having an office or place of business within the City of Solon.

(w) **TAXABLE INCOME.** Income minus the deductions and credits allowed by this chapter. (See **INCOME** definition.)

(x) **TAXABLE YEAR.** 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.

(y) **TAXPAYER.** A person, whether an individual, partnership, association, corporation or other entity, required hereunder to file a return and/or pay a tax.

(Ord. 2007-217, passed 10-15-2007)

### § 890.03 IMPOSITION OF TAX AND RATE.

An annual tax for the purposes specified in § [890.01](#) shall be imposed on and after July 1, 1995, at the rate of 2% per annum, upon the following:

(a) On all income, qualifying wages, commissions and other compensation earned on and after July 1, 1995, by residents of the city;

(b) On all income, qualifying wages, commissions and other compensation earned on and after July 1, 1995, by nonresidents of the city for work done or services performed or rendered within the city. Separation pay, termination pay, reduction-in-force pay and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the municipality.

(1) The city shall not, however, tax the compensation of a nonresident individual who will be deemed to be an occasional entrant if all of the following apply:

A. The compensation is paid for personal services performed by the individual in the city on 12 or fewer days during the calendar year, in which case the individual shall be considered an occasional entrant for purposes of the city income tax. A day is a full day or any fractional part of a day;

B. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the city and the individual pays tax on compensation described in division (b)(2) of this section to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual; and

C. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the city.

(2) Beginning with the thirteenth day an individual deemed to have been an occasional entrant to the city performs services within the city, the employer of said individual shall begin withholding the city income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the city in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the city by the individual for the first 12 days.

(3) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the city.

(c) On the portion attributable to the city on the net profits earned on and after July 1, 1995, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done and/or services performed or rendered in business or other activities conducted in the city. Tax that is due on net profits distributed to partners or owners of unincorporated businesses and pass-through entities shall be collected and remitted to Solon by the entities on behalf of its partners and owners;

(d) On the portion of the distributive share of the net profits earned on and after July 1, 1995, 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;

(e) On the portion attributable to the city of the net profits earned on or after July 1, 1995, of all nonresident unincorporated business entities, professions or other activities derived from sales made, work done and/or services performed or rendered in 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;

(f) On the portion of the distributive share of the net profits earned on or after July 1, 1995, 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;

(g) On the portion attributable to the city of the net profits earned on and after July 1, 1995, 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;

(h) Effective for tax years 2004 and later, the distributive share of income paid to an S corporation shareholder shall be taxable in the following manner:

(1) If no portion of the net profits of the S Corporation are allocated or apportioned to the state, the distributive share is taxable only to the extent that it represents wages or net earnings from self-employment; and

(2) If any portion of the net profits of the S Corporation are allocated or apportioned to the state, the full amount of the distributive share is taxable.

(i) On all taxable income from lotteries, gaming, wagering or schemes of chance received by residents of the city or received by nonresidents of the city within the city or on the basis of activity conducted within the city. Taxable income shall not include proceeds from casinos, lotteries, gaming, wagering or schemes of chance sponsored by legitimate nonprofit organizations in an aggregate amount of less than \$250,000 per year; and

(j) Exemptions. The tax provided for herein shall not be levied on the following:

(1) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the National Guard;

(2) The income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities, and only to the extent that the said income is exempt from federal income tax;

(3) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations and only to the extent that the said income is exempt from federal income tax;

(4) Social Security benefits, unemployment compensation (excluding supplemental unemployment compensation), payments from pension plans or similar payments, including disability payments received from private industry, or local, state or federal governments, or from charitable, religious or educational organizations, and the proceeds of sick, accident or liability insurance policies. The disability benefits excludable must be of a permanent nature as determined by a physician or government entity;

(5) Proceeds of insurance paid by reason of the death of the insured; pensions, annuities or gratuities not in the nature of compensation for services rendered, from whatever sources derived;

(6) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages;

(7) Gains from involuntary conversions, cancellation of indebtedness, 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);

(8) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually;

(9) Income of all individuals under 18 years of age, whether residents or nonresidents;

(10) Alimony received;

(11) Expenses deductible on Federal Form 2106 in accordance with federal guidelines, and subject to audit and approval by the Administrator;

(12) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained clergy's compensation. The clergy must be duly ordained, commissioned or licensed by a religious body constituting a religious denomination, and must have authority to perform all sacraments of that religious body; and

(13) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce, and/or is prohibited by the Constitution of the state or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

(Ord. 2007-217, passed 10-15-2007; Ord. 2012-202, passed 8-20-2012)

#### **§ 890.04 EFFECTIVE PERIOD.**

(a) The tax shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation and with respect to the net profits of businesses, professions or other activities earned on and after October 1, 1967.

(b) All provisions of this chapter, including all amendments, shall apply to taxpayers required to file tax returns on or after January 1, 2008.

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.05 DETERMINATION OF ALLOCATION OF TAX.**

(a) *Method of determination.* Net profits from a business or profession conducted both within and without the boundaries of the city shall be considered as having a taxable situs for purposes of the tax in the same proportion as the average ratio of:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the city during the taxable period to the average original cost 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. 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. Wages, salaries and other compensation shall be included to the extent that they represent qualifying wages; and

(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.

(b) *Basis.* In the event that the foregoing allocation formula in division (a) above does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result. A basis using the “books and records” method, or another method, may be substituted at the discretion of the Administrator.

(c) *Sales made in the City of Solon.* As used in division (a)(3) hereof, ***SALES MADE IN THE CITY OF SOLON*** means:

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

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

(3) All sales of tangible personal property which is shipped from a place within the City of Solon to purchasers outside of the City of Solon 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.

(d) *Total allocation.* The percentages determined in accordance with divisions (c)(1), (c)(2) and (c)(3) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer, shall be added together and the total so obtained shall be divided by the number of percentages used in deriving said total in order to obtain the business allocation percentage referred to in division (a) hereof. A factor is applicable even though it may be allocable entirely in or outside the city.

(e) *Rentals.* Rental income received by a taxpayer shall be included in the computation of net profits from business activities under divisions (c) through (g) of § [890.03](#) 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. The net profits will be allocated in accordance with the three-factor formula, unless approval is given by the Administrator to use a substitute method (see division (b) above). Net profits not constituting a business activity remain taxable, and shall be taxed using the books and records method.

(1) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of \$125 per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax.

(2) In the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$125 per month.

(3) 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 said \$125 per month. Any person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds \$125 per month.

(f) *Operating loss-carry forward.*

(1) The portion of a net operating loss sustained in any taxable year subsequent to October 1, 1967, 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.

(Ord. 2007-217, passed 10-15-2007)

 **§ 890.06 RETURNS AND PAYMENT OF TAX.**

(a) *When a return is required to be made and filed.* Each taxpayer, except as herein provided, shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 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 on or before the fifteenth day of the fourth month from the end of such fiscal year or period.

(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, or on an acceptable generic form as defined in this chapter, setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and/or received, and gross income from a 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;

(2) The amount of 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, including but not limited to copies of all W-2 Forms, 1099 Miscellaneous Income Forms, page one of Form 1040, pages one through four of Form 1120, 1120S (including (K-1), 2106, 1065 (including K-1s), Schedule C (including cost of goods



manufactured and/or sold), Schedule E, Schedule F and any other federal schedules, if applicable.

(c) *Taxpayer; return.* The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of § [890.07](#), or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of § [890.08](#) or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with § [890.17](#), shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

(d) *Taxpayer; overpayment.* 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 shall be collected or refunded.

(e) *Extension of time for filing returns.* The Administrator may extend the time for filing of the annual return upon the request of the taxpayer provided that a copy of the federal extension is filed with the Administrator on or before the original due date of the city tax return.

(1) For taxable years 2004 and later, the extended due date for individuals shall be the last day of the month following the month to which federal income tax due date has been extended. For businesses, if the extension is filed through the Ohio Business Gateway the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. If not filed through the Ohio Business Gateway the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. The Administrator may deny the extension if the taxpayer fails to file the request timely, fails to file a copy of the federal extension request, or if the taxpayer's income tax account with the city is delinquent in any way.

(2) 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.

(3) 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.

(f) *Consolidated returns.*

(1) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to IRC § 1501 may file a consolidated return with the city.

(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 allocations as he or she deems appropriate to produce a fair and proper allocation of net profits to the city.

(g) *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 §§ [890.16](#) and [890.17](#). Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) 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.

(h) *Business losses.* Each taxpayer may offset business losses against business net profits from any business conducted in the city or in any other municipality that does not levy an income tax on net profits therefrom. However, a loss from the operation of a business may not be used to offset the income on a taxpayer's W-2 Form.

(i) *Reporting a net loss; filing requirements.* Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter.

(j) *Liability.* The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment shall be personally liable for failure to file the return or pay the tax, penalties or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file the return or pay taxes, penalties or interest due.

(k) *Failure to receive or procure.* The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him or her from filing any information return, tax return, declaration or other required form, or from paying the tax.

(Ord. 2007-217, passed 10-15-2007)

 **§ 890.07 COLLECTION AT SOURCE.**

(a) Each employer within or doing business within the city shall deduct, at the time of payment of an employee's income, salary, wage, commission or other compensation, the tax of 2% per annum on and after July 1, 1995, of the gross income, salaries, wages, commissions or other compensation due by said employer to said employee and shall make a return and pay to the Administrator the amount of taxes so deducted. Said returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefore by the Administrator.

(1) If the taxes withheld by an employer for the city during the previous tax year averaged \$250 per month or more, the employer shall remit payment of the withheld taxes to the city on or before the twentieth day of the month following the month for which the taxes were withheld.

(2) If the taxes withheld by an employer for the city during the previous tax year averaged less than \$250 per month, payments may be remitted quarterly on or before the last day of the month following the end of the quarter for which the taxes were withheld, subject to the approval of the Administrator, and in accordance with the rules and regulations prescribed by the Administrator.

(3) Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have in fact been withheld.

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

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

(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.

(e) The officer or employee having control or supervision, or charged with the responsibility of withholding the tax, filing the return and making the payment, shall be personally liable for the failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes due.

(f) On or before February 28 following any calendar year, such employer shall file with the Administrator an annual reconciliation return along with an information return (W-2 Form) for each employee from whom Solon income tax has been or should have been withheld, showing the name, address and Social Security number of the employee, the total amount of compensation paid during the year and the amount of municipal income tax withheld from the employee with the municipality for which said tax was withheld identified. The information return shall also include all of the information required to be reported by the employer to IRS on a W-2 form. At the time of filing the annual reconciliation return the employer shall pay over any amounts deducted or which should have been deducted during the preceding year but which were not remitted. The annual reconciliation form shall be obtained from the Administrator.

(g) On or before February 28 of each year all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the city with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers or

federal identification numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

(h) All employers that provide any contractual service within the city, and who employ subcontractors in conjunction with that service, shall provide the city the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax employer requirements under this chapter.

(Ord. 2007-217, passed 10-15-2007)

### **§ 890.08 DECLARATIONS AND ESTIMATED PAYMENTS.**

(a) *Declaration of income not collected at source.* Every person who anticipates any taxable income which is not subject to § [890.07](#) and/or from which tax will not be fully withheld, or who engages in any business, profession, enterprise or activity subject to the tax imposed by § [890.03](#), shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, that if a person's income is wholly from wages from which the tax will be withheld and remitted to the city in accordance with § [890.07](#), such person need not file a declaration.

(1) The declaration shall be filed on or before April 15 of each year during the effective period set forth in § [890.04](#) or on or before the fifteenth day of the fourth month of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(3) The declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, or on an acceptable generic form as defined in this chapter. Credit shall be taken for city tax to be withheld from any portion of such income. In accordance with the provisions of § [890.17](#), credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(4) 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.

(b) *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 tax due.

(1) If the taxpayer is an individual, 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 taxpayer's taxable year, provided that in case an amended declaration has been filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(2) If the taxpayer is a corporation or association, at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth and twelfth months 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.

(c) *Penalties or interest.* No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the city on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to 100% of the previous year's tax liability, provided that the previous year reflected a 12-month period and the taxpayer filed a return for that year, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to 90% of the final tax liability for the tax year due on or before April 15 of the current year.

(d) *Annual return.* See § [890.06](#)(a).

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.09 INTEREST ON UNPAID TAX.**

All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of 1% per month or fraction of a month thereof.

(Ord. 2007-217, passed 10-15-2007; Ord. 2012-202, passed 8-20-2012)

#### **§ 890.10 PENALTIES ON UNPAID TAX.**

In addition to interest as provided in § [890.09](#), penalties based on the unpaid tax are hereby imposed as follows:

(a) For failure to pay taxes due, other than taxes withheld: 1% per month or fraction of a month thereof, but not less than \$25; and

(b) For failure to pay taxes withheld from employees: 3% per month or fraction of a month thereof.

(Ord. 2007-217, passed 10-15-2007; Ord. 2012-202, passed 8-20-2012)

#### **§ 890.11 EXCEPTIONS TO INTEREST AND PENALTY PROVISIONS.**

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. Further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, provided that an amended return is filed and the additional tax is paid within three months after a final determination of the federal tax liability.

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.12 ABATEMENT OF INTEREST AND PENALTY.**

The Administrator shall have the authority to abate penalty and/or interest.

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.13 VIOLATIONS.**

(a) No person shall:

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

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

(3) Fail, neglect or refuse to pay the tax, penalties and/or interest imposed by this chapter;

(4) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;

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

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

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

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

(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 address and the date thereof;

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

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

(b) Prosecutions for an offense made punishable under this chapter shall be commenced within three years after the commission of the offense; provided that in the case of fraud, failure to file a return, or the omission of 25% or more of the income or net profits required to be reported, prosecutions may be commenced within six years after the commission of the offense in accordance with R.C. § 718.12(B).

(c) Any person who violates any of the provisions of division (a) above shall be subject to the penalties in § [890.99](#).

(Ord. 2007-217, passed 10-15-2007)

 **§ 890.14 RESERVED FOR FUTURE USE.**

 **§ 890.15 FAILURE TO PROCURE FORMS NOT EXCUSE.**

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax.

(Ord. 2007-217, passed 10-15-2007)

**§ 890.16 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

(a) *Unpaid taxes recoverable as other debts.*

(1) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Such suit shall not be made after three years from the time the return was due or filed, whichever is later. However, in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover municipal income taxes and penalties and interest thereon shall be brought within six years after the tax was due or the return was filed, whichever is later. 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.

(2) When deemed necessary, the Administrator may outsource the collection of delinquent accounts to a law firm or collection agency. The fees charged for outsourcing, including related court costs, shall be assessed and added to the delinquent taxpayers' 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 on 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. In addition, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

(1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from an NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP;

(2) A taxpayer who receives income as a result of payments from an NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount; and

(3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the non-qualified compensation.

(c) *Refunds; recovery.* Income tax that has been deposited with the city, but should have been deposited with another municipality, is allowable by the city as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the city, but was deposited with another municipality, shall be subject to recovery by the city. The city will allow a non-refundable credit for any amount owed the city that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or



higher than the city's tax rate. If the city's tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the city.

(d) *Overpayments of withheld tax.* Overpayments of withheld tax that have resulted due to incorrect withholding of an employee by an employer, and are not due as a result of excess withholding requested by the employee, shall be refunded to the employer. It shall be the responsibility of the employer, and not the city, to refund such overpayment to the employee. However, nothing in this division (d) shall affect the right of a nonresident employee to apply directly to the city for refund of income tax withheld for days worked out of Solon.

(e) *Payments on delinquent amounts.* Payments on delinquent amounts shall be applied in the following order:

- (1) To the taxes owed for any previous year in the order in which such taxes became due;
- (2) To unpaid penalty and interest assessments in the order in which such assessments became due; and
- (3) To the taxpayer's current estimated tax liability.

(f) *Amounts of less than \$1.* Amounts of less than \$1 shall not be collected or refunded.

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.17 SOLON RESIDENT SUBJECT TO INCOME TAX IN OTHER MUNICIPALITY.**

(a) *Claim for credit.* If it is made to appear that a Solon resident has paid a municipal income tax on the same income to another municipality, such Solon resident may claim a credit of the amount of income tax paid to such other municipality, but not in excess of the tax rate assessed by this chapter.

(b) *Filing of return or form required.* In the event a Solon resident is entitled to credit for taxes paid another municipality, such Solon resident is required to file a return or form in such manner as the Administrator designated by the city may prescribe.

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

(d) *Failure to file return or form.* In the event that such Solon resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he or she shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(e) *Time for filing claims.* Any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed, provided that where such claim for reciprocity



refund has been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the city on or before January 31 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(f) *Credit.* No credit will be given to taxpayers for school district income taxes.

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.18 RECEIPTS AND DISBURSEMENT OF INCOME TAX COLLECTIONS.**

All municipal income tax revenue received shall be deposited and credited to the municipal income tax fund. After all expenses for collecting, administering and enforcing the city's income tax laws, rules and regulations, the balance shall be distributed to other municipal funds in accordance with the voter approved levies and City Council legislation.

(Ord. 2007-217, passed 10-15-2007)

#### **§ 890.19 DUTIES AND AUTHORITY OF THE ADMINISTRATOR.**

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

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

(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 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. Taxpayers are hereby required to comply with the requirements of this chapter and the rules and regulations.

(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 §§ [890.13](#), 890.16(a) and 890.99 shall apply.

(e) *Authority to determine amount of tax due.* In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the city from the taxpayer and shall send to such taxpayer a written assessment showing the amount of tax so determined, together with interest and penalties thereon, if any. If the taxpayer fails to respond to the assessment within 30

calendar days, the tax, penalties and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(f) *Authority to make investigations.* The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal and state income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish within ten calendar days following a written request by the Administrator, or his or her 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 and state 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 chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of this chapter, punishable as provided in § [890.99](#).

(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. No person shall divulge such information in violation of this section.

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

(k) *Authority to contract for central collection facilities.* The Administrator may enter into an agreement, subject to the approval of Council, on behalf of the city, with any other municipal corporation to permit such other municipal corporation to act as agent for the city for the purpose of administering the income tax laws of the city and of providing a central collection facility for the collection of the income tax on behalf of the city.

(l) *Assignment of duties and authority.* In the event the Administrator, 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) hereof, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation.

(Ord. 2007-217, passed 10-15-2007)

**§ 890.20 BOARD OF REVIEW.**

(a) *Establishment; composition; officers; quorum; rules; records; hearings.* A Board of Review, consisting of the Mayor, the Vice-Mayor and a member of the Audit Committee is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairperson and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.

(b) *Hearing.* Any hearing by the Board shall be conducted privately and the provisions of § [890.19](#)(i) 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.

(c) *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.

(d) *Appeal of Administrator's decision.* Any person dissatisfied with any ruling or decision of the Administrator which is made under authority conferred by this chapter and who has filed the required returns or other documents pertaining to the contested issue may appeal therefrom to the Board of Review within 30 days from the announcement of such ruling or decision by the Administrator. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board must schedule a hearing within 45 calendar days of receiving the appeal. The Board must issue a written decision within 90 days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer within 15 days after issuing the decision.

(e) *Appeal of Board of Review's decision.* Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within 30 days from the announcement of such ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

(Ord. 2007-217, passed 10-15-2007)

**§ 890.21 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 said taxes levied in the aforesaid period are fully paid and until any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in §§ [890.13](#) through [890.16](#).

(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 § [890.06](#) as though the same were continuing.

(Ord. 2007-217, passed 10-15-2007)

**§ 890.22 SAVINGS CLAUSE.**

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

(Ord. 2007-217, passed 10-15-2007)

**§ 890.23 REVENUE RECAPTURE PROGRAM.**

(a) The Tax Administrator is authorized to create and implement a Revenue Recapture Program that will allow for the offset, redirect or interception of any municipal income tax refund due an individual when it has been determined that the individual taxpayer has an outstanding debt payable to the city. Individual municipal income tax refunds may be used by the Tax Administrator to apply to any debts, including but not limited to sewer billing charges, permits, fees, fines, registrations, citations, restitution and other administrative assessments, provided that the individual taxpayer has not satisfied such debt within a reasonable time period.

(b) The Tax Administrator shall make provision for unfair application of a refund in cases where a joint return has been filed for the year in which the refund is requested and the spouse of the main filer has no participation in the debt (innocent spouse provision). The Revenue Recapture Program applies only to individual tax returns.

(c) Debts barred by any applicable statute of limitations cannot be recaptured. Prior to the recapture of any debt, the Tax Administrator shall notify in writing by certified mail, the taxpayer to whom the original refund amount is due, of the city's intention to offset part or all of the refund due. Such notice shall detail the specific debt that the refund will offset. The redirection or recapture of any valid date shall take place no sooner than 30 days from the date of the written notice to the taxpayer.

(d) Any taxpayer subject to the Revenue Recapture Program is entitled to the appeal process provided for in this chapter.

(Ord. 2013-122, passed 7-1-2013)

**§ 890.99 PENALTY.**

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than \$500 or imprisoned not more than 60 days, or both, for each offense.

(b) Whoever violates § [890.19](#)(i) is guilty of a misdemeanor of the first degree and shall be fined not more than \$1,000 or imprisoned not more than six months, or both, for each offense.

Each disclosure shall constitute a separate offense. In addition, any employee of the city who violates § [890.19](#)(i) shall be guilty of an offense punishable by immediate dismissal.

(Ord. 2007-217, passed 10-15-2007)