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Wadsworth, OH Code of Ordinances

INCOME TAX

§ 34.15 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTRATOR. The individual designated by this subchapter to administer and enforce the provisions of this subchapter, which person shall be the City Auditor.

('65 Code, § 163.02)

ASSOCIATION. A partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

('65 Code, § 163.03)

BUSINESS. An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.

('65 Code, § 163.04)

CORPORATION. A corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory foreign country or dependency.

('65 Code, § 163.05)

EMPLOYEE. One who works for wages, salary, commissions or other type of compensation in the service of an employer.

('65 Code, § 163.06)

EMPLOYER. An individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

('65 Code, § 163.07)

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

('65 Code, § 163.08)

GROSS RECEIPTS. The total income from any source whatsoever.

('65 Code, § 163.09)

INTANGIBLE INCOME. Income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in R. C. Chapter 5701, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. “Intangible income” does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

(R.C. § 718.01(A)(5))

NET PROFITS. The net gain from the operation of a business, profession, enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit), after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this subchapter, Federal, State or other taxed based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this subchapter.

(‘65 Code, § 163.10)

NONRESIDENT INDIVIDUAL. An individual who is not domiciled in the city or whose usual place of abode is outside the city.

(‘65 Code, § 163.11)

NONRESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity not having an office or place of business within the city.

(‘65 Code, § 163.12)

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 means the parties or members thereof, and as applied to corporations, the officers thereof.

(‘65 Code, § 163.13)

PLACE OF BUSINESS. Any bona fide office other than a mere statutory office, factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of his regular employees regularly in attendance.

(‘65 Code, § 163.14)

RESIDENT INDIVIDUAL. Any individual who is domiciled in the city or whose usual place of abode is in the city.

(‘65 Code, § 163.15)

RESIDENT UNINCORPORATED BUSINESS ENTITY. An unincorporated business entity having an office or place of business within the city.

('65 Code, § 163.16)

TAXABLE INCOME. Wages, salaries, commissions and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this subchapter.

('65 Code, § 163.17)

TAXABLE YEAR. The calendar year or fiscal year upon the basis of which the net profits are to be computed under this subchapter, 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.

('65 Code, § 163.18)

TAXPAYER. A person whether an individual, partnership or association, or any corporation or other entity, required hereunder to file a return or pay a tax.

('65 Code, § 163.19)

(Ord. 137-72, passed 12-5-72)

§ 34.16 RATE AND INCOME TAXABLE.

To provide for the purposes of general municipal operations maintenance, new equipment and capital improvements of the city, there is hereby levied a tax at the rate of 1% per year upon the following:

(A) On all salaries, wages, commissions and other compensation earned on and after January 1, 1973, by residents of the city.

(B) All income taxable under this section shall, after July 1, 1981, be subject to an additional income tax of .3% which is levied to provide funds for general municipal operations, and capital improvements of the city.

('65 Code, § 164.08) (Ord. 19-81, approved by voters 6-2-81)

(C) On all salaries, wages, commissions and other compensation earned on and after January 1, 1973, by nonresidents of the city for work done or services performed or rendered in the city.

(D) (1) On the net profits earned on and after January 1, 1973, of all unincorporated businesses, professions or other activities conducted by residents of the city.

(2) On the net profits earned on and after January 1, 1973, of all unincorporated businesses, professions or other activities conducted in the city by nonresidents.

(3) For the purposes of divisions (C)(1) and (C)(2) hereof, an association shall not be taxable as an entity, but any member thereof who is a resident of the city shall be taxed individually on his entire share, whether distributed or not, of the annual net profits of the association, and any nonresident member thereof shall be taxed individually on his entire share, whether distributed or not, of the annual net profits of the association, and any nonresident member thereof shall be taxed individually only on that portion of his share, whether distributed

or not, of the annual net profits of the association as are derived from work done, services performed or rendered, and business or other activities conducted in the city.

(E) On the net profits on and after January 1, 1973, of all corporations, states, trusts and limited partnerships, derived from work done or services performed or rendered and business or other activities conducted in the city, whether or not such corporations, estates, trusts and limited partnerships have their principal or any place of business located in the city.

('65 Code, § 164.01) (Ord. 137-72, passed 12-5-72)

§ 34.161 ADDITIONAL INCOME TAX FOR STREET IMPROVEMENTS.

All income taxable under § 34.16 of the Codified Ordinances, shall, on and after January 1, 2012 until and including December 31, 2021 be subject to an additional income tax of one-tenth of on percent which is levied to provide funds for street improvements of the city.

(Ord. 10-134, passed 1-18-11, approved by electorate 5-3-11)

§ 34.17 ALLOCATIONS OF NET PROFITS.

(A) Except as otherwise provided in division (D) of this section, net profit from a business or profession conducted both within and without the boundaries of the city shall be considered as having a taxable situs in the city for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(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 of 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 this paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the city to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the city under R.C. § 718.011;

(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) If the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations, so as to produce an equitable result.

(C) As used in division (A) of this section, "sales made in a municipal corporation" mean:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

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

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation 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.

(R.C. § 718.02(A, B)) ('65 Code, § 164.02) (Ord. 137-72, passed 12-5-72)

§ 34.18 EFFECTIVE PERIOD.

The income tax imposed by § 34.16 shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 1973, and with respect to the net profits of business, professions or other activities earned on and after January 1, 1973. However, where the fiscal year of the business, profession or other activity differs from the calendar year the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after January 1, 1973, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis. Where the fiscal year of a business, profession or other activity is other than a calendar year in computing initial tax the profits of such taxpayer shall be determined by dividing the annual profits by 12 and multiplying the quotient by the number of months within the period commencing January 1, 1973, and ending at the conclusion of the fiscal year.

('65 Code, § 164.03) (Ord. 137-73, passed 12-5-72)

§ 34.19 RETURN AND PAYMENT.

(A) Each tax payer who engages in business or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this subchapter shall, whether or not a tax is due thereon, make and file a return on or before April 30 of each year with the Department of Taxation on a form furnished by or obtained from the Department of Taxation, setting forth the aggregate amount of salaries, wages, commissions and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax together with such other pertinent information as the Administrator requires. However, when the return is made for a fiscal or other period different from the calendar year, the return shall be made on or before the thirtieth day of the fourth month after the close of the fiscal year or other period.

(B) Each taxpayer whose salaries, wages, commissions and other compensation are subject to the tax imposed by this subchapter may offset losses from any business or professional activity when conducted in this city. In any taxable year, a husband and wife may elect to file separate or joint returns. If joint returns are filed, a husband or wife may offset losses from any business or professional activity when conducted in this city.

(C) *Operating loss carry forward.*

(1) The portion of the net operating loss, based on income taxable under this chapter, sustained in any taxable year beginning with fiscal year 1995 allocable to the city may be applied against either current income allocable to the city or against the portion of the profit of succeeding year(s) allocable to the city, until exhausted, or both. In no event may the loss be applied for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of a prior year.

(2) In the event net profits are allocated both within and without the city, the portion of a net operating loss sustained shall be allocated to the city in the same manner as provided herein for allocating net profits to the city. The portion of a net operating loss to be carried forward shall be determined in the year the net operating loss is sustained, on the basis of the allocation factors applicable to that year. The same method of accounting and allocation must be used in the year in which an operating loss is carried as was used in the year in which the operating loss was sustained.

(3) A short fiscal year (a fiscal year of less than 12 months) in cases where there has been a change in accounting period, where a new taxpayer selects a short fiscal year, or where a new taxpayer operates in the city for less than his full accounting period, shall be considered as a full taxable fiscal year.

(4) In any return in which a net operating loss deduction is claimed, a schedule shall be attached showing:

(a) Year in which net operating loss was sustained.

(b) Method of accounting and allocation, used to determine portion of net operating loss allocable to the city.

(c) Amount of net operating loss used as a deduction in each prior year.

(d) Amount of net operating loss claimed as a deduction in current year.

(5) The net operating loss of a business which loses its identity through merger, consolidation, and the like, shall be allowed as a carry-forward loss deduction to the surviving business entity to the extent permitted by the Internal Revenue Code.

(D) The taxpayer making a return shall, at the time of the filing thereof, pay to the city the amount of taxes shown as due thereon; except that where any portion of the tax due was deducted at the source pursuant to the provisions of § 34.21 or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of § 34.22, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with § 34.23 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(E) A taxpayer who has overpaid his income tax in any taxable year may request a refund provided there is no other tax liability and provided, further, that no amount less than \$1 will be refunded or collected.

(F) The Administrator shall have the authority to extend the time for filing the annual return upon the request of the taxpayer for not more than six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or

interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

('65 Code, § 164.04) (Ord. 91-80, passed 12-2-80; Am. Ord. 137-95, passed 12-21-95)

§ 34.20 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

Where 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 § 34.19(E), such amended return shall be on a form obtainable on request from the Department of Taxation. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return. Within three months from the final determination of any federal tax liability affecting the taxpayer's city tax liability, such taxpayer shall make and file an amended city return showing income subject to the city tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment. No refund shall be allowed unless a written request is presented to the Administrator within the time prescribed by R.C. § 718.06.

('65 Code, § 164.05) (Ord. 137-72, passed 12-5-72)

§ 34.21 COLLECTION AT SOURCE.

(A) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the city shall deduct at the time of the payment of such salary, wage, commission or other compensation, the amount of tax imposed by § 34.16 on the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted subject to the provisions of divisions (C) and (D) hereof. Returns shall be on a form prescribed by or acceptable to the Administrator, and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

(C) Such employer who deducts the tax of \$100 or more per month shall pay to the Administrator on or before the twentieth of the month following the amount of taxes so deducted on a monthly basis beginning with the first month the employer exceeds \$100 in taxes withheld.

(D) No person shall be required to withhold the tax on 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, but such employee shall be subject to all the requirements of this chapter.

('65 Code, § 164.06) (Ord. 44-82, passed 6-29-82)

§ 34.22 DECLARATIONS.

(A) Every person who anticipates any taxable income which is not subject to § 34.21, or who engages in any business, profession, enterprise or activity subject to the tax imposed by § 34.16 (C)(1) and (C)(2) 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. However, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the city in accordance with § 34.21, such person need not file a declaration.

(B) Such declaration shall be filed on or before April 30 of each year during the life of this Title or on or before the thirtieth day of the fourth month the taxpayer becomes subject to tax for the first time. Those taxpayers reporting on a fiscal year bases shall file a declaration on or before the thirtieth day of the fourth month after the beginning of each fiscal year or period.

(C) Such declaration shall be filed upon a form furnished by or obtainable from the Department of Taxation, provided that credit shall be taken for the city tax to be withheld from any portion of such income. In accordance with the provisions of § 34.24, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(D) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

(E) Such declarations of estimated tax to be paid the city shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the thirtieth day of the sixth, ninth and thirteenth months after the beginning of the taxable year. However, 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.

(F) On or before the thirtieth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the city shall be paid therewith in accordance with the provisions of § 34.19.

('65 Code, § 164.07) (Ord. 91-80, passed 12-2-80)

§ 34.23 CREDITS AND EXEMPTIONS; CONTRACTS.

(A) (1) Credit will be granted to every individual taxpayer who resides in the city but who received net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered outside the city, if it is made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, salaries, wages, commissions or compensation in another municipality, this credit to be applied only to the extent off the tax assessed by this subchapter, by reason of such net profits, salaries, wages, commissions or compensation earned in such other municipality where such tax is paid. As to taxable income after July 1, 1981 this credit shall be limited to 1% of the income so taxed by the other municipality.

(2) A municipal income tax paid to another municipal corporation due to the existence of a joint economic development district shall likewise be entitled to this credit.

('65 Code, § 166.01) (Ord. 18-81, passed 3-17-81; Am. Ord. 14-95, passed 2-21-95)

(B) The municipality shall not tax any of 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 Ohio 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;

(3) Except as otherwise provided in R.C. § 718.01(I), intangible income;

(4) Compensation paid under R.C. § 3501.28 or R.C. § 3501.36 to a person serving as a precinct election official, to the extent that such compensation does not exceed \$1,000 annually. Such compensation in excess of \$1,000 may be subjected to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

(5) Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under R.C. Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through the municipal corporation, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such a tax by reason of residence or domicile in the municipal corporation, or the headquarters of the authority or commission is located within the municipal corporation;

(6) The income of a public utility, when that public utility is subject to the tax levied under R.C. §§ 5727.24 or 5727.30, except a municipal corporation may tax the following, subject to R.C. Chapter 5745:

(a) Beginning January 1, 2002, the income of an electric company or combined company;

(b) Beginning January 1, 2004, the income of a telephone company.

As used in division (B)(6) of this section, "combined company," "electric company," and "telephone company" have the same meanings as in R.C. § 5727.01.

(7) On and after January 1, 2003, items excluded from federal gross income pursuant to section 107 of the Internal Revenue Code;

(8) On and after January 1, 2001, compensation paid to a nonresident individual to the extent prohibited under R.C. § 718.011;

(9) (a) Except as provided in division (B)(9)(b) and (c) of this section, an S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(b) If, pursuant to division (H) of former R.C. § 718.01 as it existed before March 11, 2004, a majority of the electors of a municipal corporation voted in favor of the question at an election held on November 4, 2003, the municipal corporation may continue after 2002 to tax an S corporation shareholder's distributive share of net profits of an S corporation.

(c) If, on December 6, 2002, a municipal corporation was imposing, assessing, and collecting a tax on an S corporation shareholder's distributive share of net profits of the S corporation to the extent the distributive share would be allocated or apportioned to this state under divisions (B)(1) and (2) of R.C. § 5733.05 if the S corporation were a corporation subject to taxes imposed under R.C. Chapter 5733, the municipal corporation may continue to impose the tax on such distributive shares to the extent such shares would be so allocated or apportioned to this state only until December 31, 2004, unless a majority of the electors of the municipal corporation voting on the question of continuing to tax such shares after that date vote in favor of that question at an election held November 2, 2004. If a majority of those electors vote in favor of the question, the municipal corporation may continue after December 31, 2004, to impose the tax on such distributive shares only to the extent such shares would be so allocated or apportioned to this state.

(d) For the purposes of division (D) of R.C. § 718.14, a municipal corporation shall be deemed to have elected to tax S corporation shareholders' distributive shares of net profits of the S corporation in the hands of the shareholders if a majority of the electors of a municipal corporation vote in favor of a question at an election held under division (B)(9)(b) or (c) of this section. The municipal corporation shall specify by ordinance or rule that the tax applies to the distributive share of a shareholder of an S corporation in the hands of the shareholder of the S corporation.

(10) Employee compensation that is not "qualifying wages" as defined in R.C. § 718.03;

(11) Beginning August 1, 2007, compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, municipal income tax shall be payable only to the municipal corporation of residence or domicile.

(12) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to R.C. § 709.023 on or after March 27, 2013, unless the person is subject to such taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, municipal income tax shall be payable only to the municipal corporation of residence or domicile.

(R.C. § 718.01(H)) ('65 Code, § 166.02) (Ord. 162-73, passed 12-11-73)

(C) No contract on behalf of the city for works or improvements of the city shall be binding or valid unless such contract contains the following provisions: "Said hereby further agrees to withhold all City of Wadsworth income taxes due or payable under the provisions of §§ 34.15 through 34.30, for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City of Wadsworth income taxes due under said sections for services performed under this contract."

('65 Code, § 166.03) (Ord. 137-72, passed 12-5-72)

§ 34.24 ALLOCATION OF FUNDS.

During fiscal year 2014, the city income tax receipts shall be applied for the following purposes and in the following order:

(A) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.

(B) Net budgeted and available income tax receipts received shall be dispersed up to the following limits:

- (1) \$4,600,000 shall be dispersed to the General Fund (110).
- (2) \$669,374 shall be dispersed to the Recreation Fund (204).
- (3) \$1,120,000 shall be dispersed to the Street Fund (205).
- (4) \$99,500 shall be dispersed to the Airport Improvement Fund (422).
- (5) \$205,999 shall be dispersed to the Capital Improvement Fund (425).
- (6) \$46,818 shall be dispersed to the City Hall Improvement Fund (430).
- (7) \$864,961 shall be dispersed to the Street Improvement Fund (471).
- (8) \$1,000 shall be dispersed to the Downtown Maintenance & Repairs Fund (525).
- (9) \$54,825 shall be dispersed to the Sidewalk Assessments Program Fund (560).
- (10) All receipts in excess of the foregoing shall remain in the Income Tax Fund as un-dispersed receipts.

(‘65 Code, § 168.01) (Ord. 10-89, passed 2-7-89; Am. Ord. 34-96, passed - -96; Am. Ord. 97-070, passed 8-5-97; Am. Ord. 99-131, passed 11-2-99; Am. Ord. 00-141, passed 11-7-00; Am. Ord. 01-084, passed 8-7-01; Am. Ord. 02-063, passed 7-2-02; Am. Ord. 02-133, passed 12-17-02; Am. Ord. 03-052, passed 7-1-03; Am. Ord. 04-114, passed 11-16-04; Am. Ord. 06-145, passed 12-19-06; Am. Ord. 07-149, passed 12-4-07; Am. Ord. 08-143, passed 11-18-08; Am. Ord. 09-133, passed 12-15-09; Am. Ord. 10-122, passed 12-7-10; Am. Ord. 11-105, passed 11-15-11; Am. Ord. 12-129, passed 12-4-12; Am. Ord. 12-149, passed 12-18-12; Am. Ord. 13-130, passed 11-19-13; Am. Ord. 14-184, passed 11-18-14)

§ 34.25 DUTIES AND INVESTIGATIVE POWERS OF ADMINISTRATOR.

(A) *Duties.*

(1) It shall be the duty of the Administrator to collect and receive the tax imposed by this subchapter in the manner prescribed by this subchapter, and it shall also be his duty to keep an accurate record showing the payment received by him from each taxpayer and the date of such payment.

(2) The Administrator is hereby charged with the administration and enforcement of the provisions of this subchapter and he is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and

enforcement of the provisions of this subchapter, including provisions for the re-examination and correction of returns and payments.

(3) In any case where a taxpayer has failed to file a return or failed to pay the tax due on 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 based on any information in his possession and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

('65 Code, § 165.01) (Ord. 137-72, passed 12-5-72)

(B) *Investigative powers.*

(1) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or who the Administrator believes is subject to the provisions of this subchapter for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this Title, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

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

('65 Code, § 165.02) (Ord. 103-79, passed 8-23-79)

§ 34.26 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as the result of returns, investigations, hearings or verifications required or authorized by this chapter or by ordinance levying an income tax pursuant R.C. Chapter 718 is confidential, and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipality as authorized by this chapter or the ordinance authorizing the levy. The Tax Administrator of the municipality may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the Tax Commissioner.

(B) This section does not prohibit the legislative authority of a municipal corporation, by ordinance or resolution, from authorizing the Tax Administrator to publish statistics in a form that does not disclose information with respect to particular taxpayers.

(R.C. § 718.13) ('65 Code, § 165.03) (Ord. 137-72, passed 12-5-72)

§ 34.27 COLLECTION OF UNPAID TAXES.

(A) All taxes imposed by this subchapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

(B) The Administrator is authorized to institute civil law suits to collect delinquent taxes due and owing the city by virtue of the provisions of this subchapter. The Administrator or his delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of the state statute of limitations.

('65 Code, § 165.04) (Ord. 137-72, passed 12-5-72)

§ 34.28 INCOME TAX BOARD OF REVIEW.

(A) *Membership, terms, vacancies.* The Board shall consist of three members to be appointed by the Mayor. It is not required but recommended that at least one of the members of the Board be an accountant and another an attorney. Members shall serve for a two-year term provided that the first members to be appointed shall decide by lot on terms as follows: One shall serve one year, one shall serve two years and one shall serve three years and thereafter they shall serve two-year terms in staggered terms. Vacancies shall be filled for the remainder of a term by appointment by the Mayor.

(B) *Meetings, quorum, attendance.* The Board of Review shall meet as often as necessary to handle any matters filed with it for review. Meetings may be called by the Chairman or by any two members. 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 confidentiality of information shall be maintained in accordance with § 34.26 of the Code of Ordinances.

(C) *Officers, clerical.* The Board of Review shall select from among its members a Chairman to serve for terms of one year. The Chairman shall preside at meetings. The Mayor's office shall make available to the Board, at no cost to the Board, a meeting room, paper and written materials, and secretary or clerical help to the extent such help is necessary and feasible.

(D) *Scope of duties.* The Board of Review shall hear such matters as are submitted to it for review. 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. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by the tax ordinance may appeal therefrom to the Board of Review within 30 days from the announcement of such ruling or decision by the Administrator, and the Board shall, upon hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board may ask the advice of the City Law Director on any procedure or on any question of law or application of law before the Board. The Board of Review cannot make policy or change policy, but shall look to existing ordinances and resolutions passed by the elected governing body of this city for policy guidance.

(E) *Request for review.* Procedure for filing a request for review shall be informal. A written statement, signed by the person requesting the review or by his attorney, shall briefly state the decision to be reviewed, the name or title of the officer or employee who made the decision, the supervisor's action on the matter, and the decision desired. The person may but is not required to state briefly the reasons why the applicant believes the decision should be changed.

(F) *Hearing.* A hearing on any request for review shall be held within 30 days of receiving the request for review. The person requesting the hearing shall be notified at least five days before the hearing, provided that less than five days notice may be given if the person requesting the review is told he can demand five days notice but he does not object to the notice actually given. In the event the Board is not able to render a decision during the hearing, the Board may take the necessary time to render a decision.

(G) *Annual review.* The Board shall, on the first regularly scheduled Council meeting of each calendar year after the establishment of this Board, provide a written report to the City Council of the activity of the Board of Review for the preceding year. After receiving the report, the City Council may amend this subchapter or repeal this subchapter in whole or in part.

('65 Code, § 165.05) (Ord. 7-88, passed 2-2-88)

§ 34.29 INTEREST AND PENALTY ON UNPAID TAXES.

(A) All taxes imposed by this subchapter and remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of 1½% per month or fraction thereof.

(B) In addition to interest there may be imposed a penalty based on the unpaid tax as follows:

(1) For failure to pay taxes due other than taxes withheld, 1½% per month or fraction thereof.

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

(C) A minimum penalty of \$25 may be assessed for failure to file and/or pay any return when due as required under this subchapter.

('65 Code, § 167.01) (Ord. 91-80, passed 12-2-80)

§ 34.30 VIOLATIONS.

No person shall:

(A) Fail, neglect or refuse to file any return or declaration required by any provision of §§ 34.16 through 34.22. The failure of a person to receive or procure a return or declaration shall not excuse any failure to file.

(B) Make any incomplete, false or fraudulent return or declaration in regard to the city income tax.

(C) Fail, neglect or refuse to pay the tax, penalties or interest imposed by §§ 34.16 through 34.22 or 34.29.

(D) Fail, neglect or refuse to withhold the tax imposed by §§ 34.16 through 34.22 from his employees or fail to remit such withholding to the Administrator.

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

(F) Fail to appear before the Administrator and to produce his books, records, papers or copies of federal income tax returns relating to the income or net profits of himself or another person upon order or subpoena of the Administrator.

(G) Refuse to disclose to the Administrator any information with regard to the income or net profits of a taxpayer.

(H) Fail to use ordinary diligence in maintaining proper records of employees names, residence addresses, social security numbers, total wages paid and this city's income tax withheld or knowingly give the Administrator false information.

(I) Do or attempt to do anything whatsoever to avoid payment of the whole or any part of the tax, penalties or interest imposed by §§ 34.16 through 34.22 or 34.29.

(J) Divulge any information obtained as a result of any municipal income tax return, declaration or investigation except for purposes of securing compliance with this code or as requested by a person who is the subject of such information.

('65 Code, § 169.01) (Ord. 103-79, passed 8-23-79)

§ 34.31 TWELVE DAY OCCASIONAL ENTRY.

(A) On and after January 1, 2001, compensation paid to an individual for personal services performed with the city shall not be subject to city income tax if the individual does not reside in the city and performs such personal services in the city on 12 or fewer days in the calendar year and, if the individual is an employee, the principal place of business of the individual's employer is located outside the city. For purposes of the 12 day calculation, any portion of a day worked in the city shall be counted as one day worked in the city.

(B) Beginning with the thirteenth day of personal service performed in the city, the employer of an individual employee shall begin withholding city income tax from remuneration paid by the employer to the individual and shall remit the withheld income tax to the city. Since the individual employee shall 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. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the city.

(C) Income tax withheld by a non-resident employer, agent of such an employer or other payer that is not situated in the city and paid to the city consistent with the provision of R.C. § 718.03 and § 34.32 of this chapter shall not be refunded to an individual under the provisions of this section regarding occasional entry.

(D) This section does not apply to entertainers or professional athletes, or to promoters of professional entertainment or sports events and their employees who are defined as those commonly understood to be such.

(Ord. 00-152, passed 12-5-00)

§ 34.32 DE MINIMIS WITHHOLDING EXEMPTION.

Consistent with R.C. § 718.03, **OTHER PAYER** as used in this section, means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

(A) (1) Beginning January 1, 2001, a nonresident employer, agent of such an employer or other payer that is not situated in the city, shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the city on account of all of the employer's employees or all of the other payer's payees exceeds \$150 for a calendar year beginning on or after that date.

(2) If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds \$150 for a calendar year beginning on or after January 1, 2001, the employer, agent or other payer shall deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is \$150 or less, except as provided in division (B) of this section.

(B) If a nonresident employer, agent of such an employer, or other payer that is not situated in the city is required to deduct and withhold taxes for an ensuing year under division (A) of this section, and the total amount of tax required to be deducted and withheld under that division in each of three consecutive ensuing years is \$150 or less, the employer, agent or other payer is not required to deduct and withhold taxes in any year following the last of those consecutive years unless the amount required to be deducted and withheld in any such following year exceeds \$150.

(Ord. 00-152, passed 12-5-00)

§ 34.33 LOTTERY AND GAMBLING WINNINGS.

In addition to the other types of income taxable under §§ 34.15 and 34.16 of this chapter, lottery winnings and other winnings from any and all types of gambling shall also be taxable when received by residents of the city at the rate set forth in § 34.16 of this chapter and the amount of such winnings shall be included in the tax return and payment required by § 34.19 of this chapter.

(Ord. 04-034, passed 6-1-04)