

**181.01 DEFINITIONS.**

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

(a) "Assignment" means the assignment made by a resident of a municipality of claim for refund due the taxpayer from another taxing municipality granting credit to nonresidents thereof.

(b) "Association" means a partnership, limited partnership, limited liability company, or corporation, and any form of unincorporated enterprise or pass-through entity, owned by two or more persons.

(c) "Board of Review" means the Board created by and constituted as provided in Section 181.09.

(d) "Business" means an enterprise, activity, profession or undertaking, of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, pass-through entity, association, corporation or any other entity, including but not limited to, the renting or leasing of property, real, personal or mixed. "Business" conducted within the City includes the direct or indirect ownership of an interest in a pass-through entity that conducts business within the City.

(e) "City" means the City of Norwalk, Huron County, Ohio.

(f) "Compensation" means all salaries, wages, commissions and other remuneration for work done or services performed. For taxable years beginning on or after January 1, 2004, "compensation" of an employee means "qualifying wages."

(g) "Corporation" means a corporation, S corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, or any unincorporated entity treated as a corporation for federal income tax purposes. The term "corporation" does not include a limited liability company that is treated as a partnership for federal income tax purposes. For taxable years beginning on or after January 1, 2004, "corporation" includes a "combined company," an "electric company" and a "telephone company," all as defined in Ohio Revised Code section 5727.01, including any amendments or successor provisions thereto.

(h) "Domicile" means the place where a taxpayer has his true, fixed, and permanent home, and to which, whenever the taxpayer is absent, he or she has the intention of returning. Factors to be considered when determining domicile are, but not limited to: registration of vehicles; current driver's license; address on federal, state or school district income tax returns; address of voter's registration; attendance at schools by taxpayer's family; and county of taxpayer's estate if deceased.

(i) "Employee" means one who works for qualifying wages or other type of compensation in the service of an employer.

(j) "Employer" means an individual, partnership, association, limited liability company, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or which employs one or more persons on qualifying wages or other compensation basis.

(k) "Fiduciary" means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

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

(m) "Gross receipts" means the total income from any source whatsoever.

(n) "Intangible income" means that income specified in Ohio Revised Code Section 718.01(A) (5), including any amendments or successor provisions thereto, and includes of any of the following types of income: 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 Chapter 5701 of the Ohio Revised Code, including any amendments or successor provisions thereto, and patents, copyrights, trademarks, trade names, 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.

(o) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(p) "Limited liability company" means a limited liability company formed under Ohio Revised Code Chapter 1705, including any amendments or successor provisions thereto, or under the laws of any other state.

(q) "Net profits" means, in the case of a corporation, the corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(2) Add an amount equal to five percent of intangible income deducted under Section 181.01(q)(1), but exclude that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code.

(3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;

(4) Deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code. This deduction does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.

(5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.

(6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors allowed as a deduction in the computation of federal taxable income.

The "net profits" of a pass-through entity shall be computed as if the pass-through entity were a corporation, except: (i) guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member or former member shall not be allowed as a deductible expense; and (ii) amounts paid or accrued to a qualified self-employed retirement plan with respect to, an owner or owner-employee of the pass-through entity, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction. "Net profits" means, in the case of a sole proprietorship, the profit shown by the individual on Internal Revenue Service Schedule C, Schedule B, and/or Schedule F. "Net profits" shall be determined in accordance with (i) the accounting method used by the taxpayer for federal income tax purposes and (ii) the Internal Revenue Code, Treasury Regulations, federal case law interpreting these authorities and administrative authorities promulgated by the Internal Revenue Service.

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

(s) "Nonresident owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in a pass-through entity that conducts business in the City and a corporation that has a direct or indirect ownership interest in a pass-through entity that conducts business in the City.

(t) "Other entity" means any person or unincorporated body not previously named or defined.

(u) "Owner" means an individual, partner, member, or any other person having an ownership interest in a pass-through entity.

(v) "Pass-through entity" means a partnership, a limited liability company that is treated as a

partnership for federal income tax purposes, a trust, an estate, or any other class of entity, excluding S corporations, the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(w) "Pension" means income earned or received as a result of retirement from employment from an IRS qualified retirement plan and which is generally, although not exclusively, reported to the taxpayer by the payor on a Form 1099-R or similar form.

(x) "Person" means every natural person, pass-through entity, 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.

(y) "Place of business" means any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more agents or employees.

(z) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code, including any amendments or successor provisions thereto, to (i) deduct any amount included in such wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code (i.e., a cafeteria plan), (ii) add any amount not included in such wages for the taxable year solely because the employee was employed by the employer prior to April 1, 1986, (iii) add any amount not included in such wages if the amount is an employee contribution or deferral described in Section 401(k) or 457 of the Internal Revenue Code, and (iv) add any amount that constitutes supplemental unemployment compensation benefits described in Section 3402(a)(2) of the Internal Revenue Code and that was not included in such wages. Qualifying wages includes compensation attributable to a nonqualified deferred compensation plan or program described in Section 3121(v)(2)(c) of the Internal Revenue Code and compensation from employment arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased under a stock option. Qualifying wages does not include compensation deferred before January 1, 2004, to the extent that such deferred compensation would not be treated as wages within the meaning of Section 3121(a) of the Internal Revenue Code at the time such deferred compensation is paid or distributed.

(aa) "Resident" means any individual domiciled in the City, or any person who maintains a place of abode and lives within the City for a total of 183 days or more, within any 12-month period of time.

(bb) "Resident owner" means an individual domiciled in the City who has an ownership interest in a pass-through entity.

(cc) "S corporation" means a corporation that has made an election under subchapter S of Chapter-1 of Subtitle A of the Internal Revenue Code for its taxable year.

(dd) "Taxable income" means the income specified in Section 181.02 as subject to the City income tax.

(ee) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits and other taxable income 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. The taxable year of an individual shall be the calendar year, unless the individual has received approval for and uses a different taxable year for federal income tax purposes.

(ff) "Taxing municipality" means any municipal corporation, other than the City, that levies a municipal income tax on compensation earned by individuals and on the net profits earned from the operation of a business.

(gg) "Taxpayer" means a person required hereunder to file a return or pay tax pursuant to this chapter. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S

subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.  
(Ord. 2005-043. Passed 12-20-05.)

**181.02 RATE AND IMPOSITION OF TAX.**

To provide funds for the purpose of general municipal operations and other municipal purposes of the City, there is hereby levied a tax upon earnings at the rate of one-half of one percent (.5%) on and after January 1, 1970 and in addition thereto, a tax upon earnings at a rate of one-quarter of one percent (.25%) on and after July 1, 1997, and in addition thereto, a tax upon earnings at a rate of one-quarter of one percent (.25%) on and after March 1, 1987, with the stipulation that this latest one quarter of one percent (.25%) shall be utilized for general municipal operations, and in addition a tax upon earnings at a rate of one quarter of one percent (.25%) on and after March 1, 1992, and in addition a tax upon earnings at a rate of one quarter of one percent (.25%) on and after March 1, 1992 with the stipulation that this latest one quarter of one percent (.25%) shall be utilized to provide funds for the Sanitation Fund and specifically to allow the continuation of the garbage collection services for the citizens of The City, upon the following:

(a) On all compensation and on all net profits from the operation of a business earned or received by a resident.

(b) On all compensation earned or received by a nonresident for work done or services performed or rendered in the City, and on all net profits earned or received by a nonresident from the operation or conduct of business in the City.

(c) On a resident owner's distributive share of the net profits of a pass-through entity earned from business conducted by the pass-through entity regardless of where such business is conducted, subject to the relief and reciprocity provisions of Section 181.07.

(d) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned from business conducted in the City, whether or not such pass-through entity has an office or place of business in the City.

(e) On the portion attributable to the City of the net profits earned by a corporation from business conducted in the City, whether or not such corporation has an office or place of business in the City. The tax imposed by this Section 181.02(e) on the net profits of an electric company, combined company or telephone company shall be subject to, and shall accord with, Ohio Revised Code chapter 5745, including any amendments or successor provisions thereto.

(f) The City income tax imposed by Section 181.02(d) upon nonresident owners shall be collected and remitted pursuant to Section 181.05(n).

(g) The portion of the net profits attributable to the City of a taxpayer conducting business both within and without the boundaries of the City shall be determined as provided in Ohio Revised Code Section 718.02, including any amendments or successor provisions thereto, and in accordance with rules and regulations adopted by the Finance Director pursuant to this chapter. Pursuant to Ohio Revised Code Section 718.02, 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 in the City 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 of 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 taxable income paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries, and other taxable income 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 Ohio Revised Code Section 718.011 and Section 181.02(k)(12).

(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. Sales of tangible personal property are considered made in the City when: (i) the tangible personal property is delivered within the City, regardless of where title passes, if such property is shipped or delivered from a stock of goods within the City; (ii) the tangible personal property is delivered within the City, regardless of where title passes, even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion; or (iii) the tangible personal property is shipped from a place within the City to purchasers outside the City, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

In the event an equitable result cannot be obtained under the apportionment formula provided for in this Section 181.02(g), the Finance Director shall have the authority to substitute other factors or methods of apportionment calculated to produce an equitable result.

(h) Operating Loss Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year allocable to the City may be applied against the portion of the profit of succeeding tax year(s) allocable to the City until exhausted, but in no event for more than three 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) For the purpose of subsection (h)(1) hereof, the portion of a net operating loss sustained shall be allocated to the City in the same manner as provided herein for allocating net profits to The City.

(3) The Finance Director shall provide by rules and regulations the manner in which such operating loss carry-forward shall be determined.

(4) If a resident operates a business or businesses (including rental) in another taxing municipality in Ohio and the business or businesses incur a loss, the amount of the loss is deemed primarily subject to the taxing jurisdiction of the other taxing municipality and may only be used to the extent and for the amount of the difference in the tax rate where the other taxing jurisdiction's tax rate is lower than the City income tax rate.

(Ord. 2005-043. Passed 12-20-05.)

(5) Notwithstanding any other provision in this chapter, for taxable years beginning on or after January 1, 2012 no net operating loss shall be applied against qualifying wages of any taxpayer.

(Ord. 2011-029. Passed 7-19-11.)

(i) For nonresident over-the-road drivers and others with similar situations reporting to a terminal, office, etc., located in the City, the employer must withhold the applicable City income tax rate on a minimum of 25% of compensation paid to such nonresident.

(j) Filing of Consolidated Returns.

(1) The Finance Director shall accept for filing a consolidated return from an affiliated group of corporations subject to the tax imposed by this chapter if the affiliated group filed for the same taxable year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. Only corporations subject to City income tax may be included in such consolidated return filed for City income tax purposes. If an affiliated group of corporations subject to the tax imposed by this chapter files a consolidated return in accordance with this Section 181.02(j)(1) for any taxable year, the affiliated group must file a consolidated return for each succeeding taxable year in which it files a consolidated return for federal income tax purposes unless, on or before the due date (taking into account extensions of time properly granted) of the return for a taxable year, the affiliated group obtains the permission of the Finance Director to cease filing a consolidated return for that year. If

an affiliated group of corporations subject to the tax imposed by this chapter files a consolidated return in accordance with this Section 181.02(j)(1) for any taxable year, the group must include a copy of its consolidated federal income tax return for the same taxable year with its consolidated City income tax return.

(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 only a portion of its total business, the Finance Director shall require such additional information as the Finance Director deems necessary to ascertain whether net profits are properly allocated to the City. If the Finance Director finds the 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 a division, branch, factory, office, laboratory or activity, or by some other method, the Finance Director shall make an allocation of net profits to the City in such manner as the Finance Director deems fair and reasonable.

(k) Exemptions; Sources of Income Not Taxed.

(1) Pay or allowance of active members of the armed forces of the United States because of active duty service or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and only to the extent that the said income is exempt from federal income tax.

(2) Poor relief, Social Security Benefits, unemployment insurance benefits (except for supplemental unemployment benefits), payments from qualified retirement plans under the Internal Revenue Code or similar payments, disability benefits received from private industry, local, state or federal governments or charitable religious or educational organizations. The disability benefits excludable must be of a permanent nature as determined by a physician or government entity.

(3) Proceeds of insurance paid by reason of death of the insured, pensions, including industrial pensions which are qualified under the Internal Revenue Code and paid as a result of retirement; disability benefits paid for total and permanent disability; annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

(4) Receipts 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.

(5) Alimony received.

(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 profits, salaries or wages.

(7) Interest, dividends, gains and other revenue from intangible property, except as defined in the computation of "net profits" under Section 181.01(q). Intangible property includes, but is not limited to, investments, deposits, money or credits, as those terms are defined in Ohio Revised Code Chapter 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

(8) Payments made to election workers that do not exceed \$1,000 annually.

(9) Compensation, net profits and other income, 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.

(10) Compensation, net profits and other income, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

(11) The amount of unreimbursed employee business expenses (2106 Expenses) for only the portion allocable to The City income and reduced by 2% of the Norwalk Adjusted Gross Income. Taxpayer must furnish a copy of the Form 2106 and Form Schedule "A" as filed with IRS if those forms were required by IRS. The deduction must be allocated to the municipalities where the income associated with the expenses was earned.

(12) Effective January 1, 2001, the following is not subject to imposition of City income tax:

Compensation paid to a nonresident for personal services (self-employment) performed within the City if the personal services are performed during twelve (12) or fewer days during the calendar year.

Compensation paid to a nonresident who is an employee for work or services performed in the City if the services or work is performed during twelve (12) or fewer days during the calendar year and further provided that the nonresident's employer is located outside of the City and if the nonresident's employer's principal place of business is located in another taxing municipality, the nonresident pays tax on such compensation to that taxing municipality in which the employer's principal place of business is located and no portion of the tax paid is refunded to the nonresident.

The foregoing two paragraphs do not apply to professional entertainers or professional athletes, promoters of professional entertainment or sporting events or an employee of such promoter.

For purposes of applying this section, a day is a full day or any fractional part of a day.

(13) An S corporation shareholder's distributive share of net profits or losses of the S corporation, except to the extent that the distributive share of net profits 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.

(14) Personal earnings of any natural person under eighteen years of age.

(1) Expenses Not Deductible.

(1) No deduction for health insurance premiums paid by self-employed taxpayers as permitted by the Internal Revenue Code is permitted for City income tax purposes.

(2) No deduction for self-employment tax paid by self-employed taxpayers as permitted by the Internal Revenue Code is permitted for City income tax purposes.

(3) No deduction for contributions to IRA or Keogh plans made by taxpayers as permitted by the Internal Revenue Code is permitted for City income tax purposes.

(Ord. 2005-043. Passed 12-20-05.)



**181.03 EFFECTIVE PERIOD.**

The City income tax shall be levied, collected and paid with respect to the taxable income earned or received on and after the effective date of the tax. However, where the fiscal year of the taxpayer differs from the calendar year, the tax shall be applied to that part of the taxable income for the fiscal year as is earned or received on and after the effective date of the tax to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

(Ord. 2005-043. Passed 12-20-05.)

**181.04 ANNUAL RETURN AND PAYMENT.**

(a) Except as otherwise herein provided, each taxpayer 18 years of age or older having taxable income subject to the tax imposed by this chapter, whether or not a tax is due thereon, shall, during the life of this chapter, make and file with the Finance Director a City income tax return on or before the fifteenth (15th) day of the fourth (4th) month following the end of each taxable year. For taxable years beginning on or after January 1, 2005, a taxpayer subject to City income tax on the net profits from a business or profession may file City income tax returns and pay City income tax through the Ohio business gateway described in Ohio Revised Code Section 718.051, including any amendments or successor provisions thereto.

(b) The return shall be filed with the Finance Director on a form or forms furnished by or obtained upon request from the Finance Director. The return shall set forth and contain:

(1) The aggregate amount of compensation or other taxable-income earned or received, supported by copies of IRS Forms W-2 and IRS Forms 1040, 1040 A, 1040 EZ and/or 1040 TEL.

(2) The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income to arrive at a net profit, supported by copies of IRS Forms 1099 and Federal Schedules C, C-EZ, E, and/or F, or Federal Forms 1065, 1120, 1120A, 1120S, 1065K-1, 1120SK-1, 1120-REIT, 1120-RIC and/or 990-T.

(3) The income reported on the City income tax return shall include only income earned or received during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter.

(4) The amount of tax imposed by this chapter on income reported.

(5) Any estimated payments or credits to which the taxpayer may be entitled under the provisions of this chapter.

(6) Information returns, schedules and statements required to support amounts reported as income or expenses and which, if not included in the return at the time of filing, render the return incomplete and the taxpayer in violation of this chapter for not filing a return as required. Upon notification to the taxpayer by the Finance Director of the missing information, the taxpayer shall have 30 calendar days to submit the missing information. Failure to do so within the time frame permitted is a violation of this chapter.

(7) Rounding to the nearest whole dollar is permitted.

(8) Individual filers may use the Alternate to 1040 Form provided by the City with each City income tax return in lieu of submitting IRS Forms 1040, 1040A, 1040EZ and/or 1040TEL as set forth in subsection (b)(1) hereof.

(c) (1) The taxpayer making a City income tax return shall, at the time of filing thereof, pay to the Finance Director the balance of tax due, if it exceeds \$4.99, after deducting:

A. The amount of City income tax deducted or withheld at the source pursuant to Section 181.05;

B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 181.06; and

C. Any credit allowable under the provisions of Section 181.07.

(2) Should the return, or the records of the Finance Director, indicate an overpayment of the tax to which the City is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability of the taxpayer and the balance, if any, at the election of the taxpayer communicated to the Finance Director shall be refunded or transferred against any subsequent liability; provided that overpayment of less than five dollars (\$5.00) shall not be refunded to the taxpayer or credited against any City income tax liability.

(d) The Finance Director is authorized to exempt from the annual filing requirement imposed in subsection (a) hereof those individuals who have filed a registration form with the Department of Finance, and indicated thereon to the Finance Director's satisfaction, that they have no income subject to City income tax on a regular basis. The Finance Director may revoke the exemption at any time and require the exempted taxpayer to resume annual filing of City income tax returns.

(e) Every taxpayer shall retain all records necessary to compute the correct City income tax liability for a period of five (5) years from the date the City income tax return is filed.

(f) A City income tax return shall be deemed filed when postmarked by the United States Postal Service or on the date delivered other than by the United States Postal Service during normal business hours to the Norwalk Tax Office.

(g) Extension of Time for Filing Returns.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of the City income tax return for the same taxable year by filing a copy of the taxpayer's federal extension request for such taxable year with the Finance Director. Any taxpayer not required to file a federal income tax return may make a written request for an extension to file a City income tax return. The request for extension must be filed on or before the original due date for the City income tax return, as set forth in Section 181.04(a). If the request is granted, the extended due date of the City income tax return shall be the last day of the month following the month to which the due date of the taxpayer's federal income tax return for the same taxable year has been extended. For taxable years beginning on or after January 1, 2005, a taxpayer who is subject to City income tax on its net profits and who receives an extension for filing the federal income tax return will receive an extension for filing the City income tax return for the same taxable year by filing a notice of such extension through the Ohio business gateway in compliance with Ohio Revised Code Section 718.051 (B), including any amendments or successor provisions thereto, but such taxpayer must pay any City income tax owed by the unextended due date for filing the City income tax return, as provided in Section 181.04(c).

(2) The Finance Director may deny a taxpayer's request for an extension of the due date to file the City income tax return if the taxpayer:

- A. Fails to timely file the request;
- B. Fails to file a copy of the federal extension request, if applicable;
- C. Owes the City any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of City income tax; or
- D. Has failed to file any required City income tax return, report, or other related document for a prior taxable year.

(3) The granting of an extension of the due date for filing a City income tax return does not extend the due date as provided in this Section 181.04 for payment of the tax; hence, penalty and interest may apply to any unpaid City income tax during the period of extension at the rates and in the amounts set out by Section 181.11. No penalty shall be assessed in those cases in which the City income tax return is filed and the final tax paid within the extended period for filing such return provided all other filing and payment requirements of this Chapter have been met. The Finance Director shall grant any extension of the due date for filing the City income tax return upon the condition that all City income tax declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that such declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension of the due date for filing the City income tax return had been granted.

(h) Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to tax due.

(i) Amended Return.

(1) Where necessary an amended return shall be filed in order to report additional income and pay any additional City income tax due, or claim a refund of City income tax overpaid. Such amended returns shall be on a form obtainable on request from the Finance Director. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City income tax liability, such taxpayer shall make and file an amended City income tax return showing income subject to the City income tax based upon such final determination of federal tax liability, and pay any additional tax and interest (no penalty) shown due thereon or make claim for refund of any overpayment.

(j) Responsibility For Filing Annual or Amended Tax Return. The officer or employee of such employer having control or supervision or charged with the responsibility of filing the City income tax return and making the payment of such tax shall be personally liable for failure to file the return or pay the tax, interest, or penalty 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.

(k) Effective January 1, 2001, a taxpayer may file a City income tax return using a generic form which is an electronic or paper form designed for reporting estimated or annual City income tax liability. The generic form, to be considered acceptable, must contain all of the information required to be submitted with a non-generic City income tax return, including all supporting reports or documents.

(Ord. 2005-043. Passed 12-20-05.)

**181.04 ANNUAL RETURN AND PAYMENT.**

(a) Except as otherwise herein provided, each taxpayer 18 years of age or older having taxable income subject to the tax imposed by this chapter, whether or not a tax is due thereon, shall, during the life of this chapter, make and file with the Finance Director a City income tax return on or before the fifteenth (15th) day of the fourth (4th) month following the end of each taxable year. For taxable years beginning on or after January 1, 2005, a taxpayer subject to City income tax on the net profits from a business or profession may file City income tax returns and pay City income tax through the Ohio business gateway described in Ohio Revised Code Section 718.051, including any amendments or successor provisions thereto.

(b) The return shall be filed with the Finance Director on a form or forms furnished by or obtained upon request from the Finance Director. The return shall set forth and contain:

(1) The aggregate amount of compensation or other taxable-income earned or received, supported by copies of IRS Forms W-2 and IRS Forms 1040, 1040 A, 1040 EZ and/or 1040 TEL.

(2) The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income to arrive at a net profit, supported by copies of IRS Forms 1099 and Federal Schedules C, C-EZ, E, and/or F, or Federal Forms 1065, 1120, 1120A, 1120S, 1065K-1, 1120SK-1, 1120-REIT, 1120-RIC and/or 990-T.

(3) The income reported on the City income tax return shall include only income earned or received during the year, or portion thereof, covered by the return and subject to the tax imposed by this chapter.

(4) The amount of tax imposed by this chapter on income reported.

(5) Any estimated payments or credits to which the taxpayer may be entitled under the provisions of this chapter.

(6) Information returns, schedules and statements required to support amounts reported as income or expenses and which, if not included in the return at the time of filing, render the return incomplete and the taxpayer in violation of this chapter for not filing a return as required. Upon notification to the taxpayer by the Finance Director of the missing information, the taxpayer shall have 30 calendar days to submit the missing information. Failure to do so within the time frame permitted is a violation of this chapter.

(7) Rounding to the nearest whole dollar is permitted.

(8) Individual filers may use the Alternate to 1040 Form provided by the City with each City income tax return in lieu of submitting IRS Forms 1040, 1040A, 1040EZ and/or 1040TEL as set forth in subsection (b)(1) hereof.

(c) (1) The taxpayer making a City income tax return shall, at the time of filing thereof, pay to the Finance Director the balance of tax due, if it exceeds \$4.99, after deducting:

A. The amount of City income tax deducted or withheld at the source pursuant to Section 181.05;

B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 181.06; and

C. Any credit allowable under the provisions of Section 181.07.

(2) Should the return, or the records of the Finance Director, indicate an overpayment of the tax to which the City is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability of the taxpayer and the balance, if any, at the election of the taxpayer communicated to the Finance Director shall be refunded or transferred against any subsequent liability; provided that overpayment of less than five dollars (\$5.00) shall not be refunded to the taxpayer or credited against any City income tax liability.

(d) The Finance Director is authorized to exempt from the annual filing requirement imposed in subsection (a) hereof those individuals who have filed a registration form with the Department of Finance, and indicated thereon to the Finance Director's satisfaction, that they have no income subject to City income tax on a regular basis. The Finance Director may revoke the exemption at any time and require the exempted taxpayer to resume annual filing of City income tax returns.

(e) Every taxpayer shall retain all records necessary to compute the correct City income tax liability for a period of five (5) years from the date the City income tax return is filed.

(f) A City income tax return shall be deemed filed when postmarked by the United States Postal Service or on the date delivered other than by the United States Postal Service during normal business hours to the Norwalk Tax Office.

(g) Extension of Time for Filing Returns.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of the City income tax return for the same taxable year by filing a copy of the taxpayer's federal extension request for such taxable year with the Finance Director. Any taxpayer not required to file a federal income tax return may make a written request for an extension to file a City income tax return. The request for extension must be filed on or before the original due date for the City income tax return, as set forth in Section 181.04(a). If the request is granted, the extended due date of the City income tax return shall be the last day of the month following the month to which the due date of the taxpayer's federal income tax return for the same taxable year has been extended. For taxable years beginning on or after January 1, 2005, a taxpayer who is subject to City income tax on its net profits and who receives an extension for filing the federal income tax return will receive an extension for filing the City income tax return for the same taxable year by filing a notice of such extension through the Ohio business gateway in compliance with Ohio Revised Code Section 718.051 (B), including any amendments or successor provisions thereto, but such taxpayer must pay any City income tax owed by the unextended due date for filing the City income tax return, as provided in Section 181.04(c).

(2) The Finance Director may deny a taxpayer's request for an extension of the due date to file the City income tax return if the taxpayer:

- A. Fails to timely file the request;
- B. Fails to file a copy of the federal extension request, if applicable;
- C. Owes the City any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of City income tax; or
- D. Has failed to file any required City income tax return, report, or other related document for a prior taxable year.

(3) The granting of an extension of the due date for filing a City income tax return does not extend the due date as provided in this Section 181.04 for payment of the tax; hence, penalty and interest may apply to any unpaid City income tax during the period of extension at the rates and in the amounts set out by Section 181.11. No penalty shall be assessed in those cases in which the City income tax return is filed and the final tax paid within the extended period for filing such return provided all other filing and payment requirements of this Chapter have been met. The Finance Director shall grant any extension of the due date for filing the City income tax return upon the condition that all City income tax declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that such declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension of the due date for filing the City income tax return had been granted.

(h) Payments received for taxes due shall be allocated first to penalties due, then to interest due, and then to tax due.

(i) Amended Return.

(1) Where necessary an amended return shall be filed in order to report additional income and pay any additional City income tax due, or claim a refund of City income tax overpaid. Such amended returns shall be on a form obtainable on request from the Finance Director. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City income tax liability, such taxpayer shall make and file an amended City income tax return showing income subject to the City income tax based upon such final determination of federal tax liability, and pay any additional tax and interest (no penalty) shown due thereon or make claim for refund of any overpayment.

(j) Responsibility For Filing Annual or Amended Tax Return. The officer or employee of such employer having control or supervision or charged with the responsibility of filing the City income tax return and making the payment of such tax shall be personally liable for failure to file the return or pay the tax, interest, or penalty 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.

(k) Effective January 1, 2001, a taxpayer may file a City income tax return using a generic form which is an electronic or paper form designed for reporting estimated or annual City income tax liability. The generic form, to be considered acceptable, must contain all of the information required to be submitted with a non-generic City income tax return, including all supporting reports or documents.  
(Ord. 2005-043. Passed 12-20-05.)

**181.05 COLLECTION AT SOURCE; TAXES WITHHELD BY EMPLOYER.**

(a) Each employer within or doing business within the City who employs one or more persons on a compensation basis in the City, shall, at the time of payment thereof, deduct the tax set forth in Section 181.02 from the gross compensation earned or received, and shall deduct the tax from the compensation earned or received within the City by nonresidents. For nonresident over-the-road drivers and others with similar situations who report to a terminal, office, etc., located in the City, the employer must withhold the applicable City income tax rate on a minimum of 25% of wages paid to such nonresident.

(b) Each such employer shall, on or before the last day of the month following each calendar quarter, make a return and remit to the City the City income tax withheld and deducted from compensation during the prior calendar quarter. Such return shall be on a form or forms prescribed by or acceptable to the Finance Director and shall be subject to the rules and regulations prescribed therefor by the Finance Director. 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. For taxable years beginning on or after January 1, 2007, any employer subject to this Section 181.05 may use the Ohio business gateway both to report the amount of City income tax withheld from compensation and to remit such amounts.

(c) Such employer in collecting such 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.

(d) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the City income tax withholding return and making the payment of the tax required to be withheld 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 a City income tax withholding return or pay taxes due.

(Ord. 2005-43. Passed 12-20-05.)

(e) On or before February 28 following any calendar year, such employer shall file with the Finance Director an annual reconciliation return along with an information return for each such employee from whom City 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 the 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 Finance Director.

(Ord. 2012-032. Passed 8-7-12.)

(f) All individuals, businesses, employers, brokers or others who are required under the Internal Revenue Code to furnish Forms 1099 to the IRS for individuals or businesses to whom or which they have paid non-employee compensation shall furnish copies of the said Form 1099's to the Finance Director or in lieu thereof, a list containing the same information as required by the IRS on the Form 1099's on or before the due date for such Form 1099's as established by the Internal Revenue Code or Treasury regulations thereunder. Failure to provide the foregoing information may result in the disallowance of any deduction for City income tax purposes of any payment that must be evidenced by



a Form 1099.

(g) Every employer shall retain all records necessary to compute withholding taxes due the City for a period of five years from the date the Reconciliation Form, W-2 Forms, and 1099 Forms are filed.

(h) All City income tax withholding returns and forms required to be filed by an employer are considered received on the date postmarked by the United States Postal Service or on the date delivered without mailing by the taxpayer during normal business hours to the Norwalk Tax Office.

(i) The failure of any employer to receive or procure a return or other required form shall not excuse the employer from preparing any information return or withholding tax returns or from filing such forms or from paying the tax due.

(j) Payments received for withholding taxes due shall be applied first to penalties due, then to interest due, and then to taxes due.

(k) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(l) An employee is not relieved from liability for City income tax by the failure of the employer to withhold the tax as required by this Section 181.05 or by the employer's exemption from the requirement to withhold City income tax.

(m) The failure of an employer to remit the City income tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the City income tax withheld.

(n) Except as otherwise provided in this Section 181.05(n), a pass-through entity that conducts business within the City and that has a nonresident owner must: (i) withhold City income tax at the rate specified in Section 181.02 on the nonresident owner's distributive share of the pass-through entity's net profits attributable to the City; and (ii) remit such tax to the City by the applicable dates provided, and on the form described, in Sections 181.04 and 181.06. A pass-through entity subject to this Section 181.05(n) that fails to collect or remit City income tax as provided in this Section 181.05(n) shall be liable for the tax that it should have withheld or remitted and shall be subject to the interest and penalty provisions of Section 181.11. The nonresident owner shall receive a credit against its City income tax liability in the amount of City income tax so withheld by the pass-through entity. All claims for refund of City income tax withheld by a pass-through entity pursuant to this Section 181.05(n) must be made by the nonresident owner within the period set forth in Section 181.12(b). A pass-through entity is not required to withhold and remit City income tax to the extent that its nonresident owners both: (i) file City income tax returns and declarations as provided in Sections 181.04 and 181.06, respectively, that report their distributive shares of the pass-through entity's net profits attributable to the City, and (ii) pay City income tax thereon.

(Ord. 2005-043. Passed 12-20-05.)

**181.06 DECLARATIONS; ESTIMATED TAX PAYMENTS.**

(a) Every person who anticipates any taxable income which is not subject to Section 181.05, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.02 and has an estimated tax liability of \$100.00 or more shall file a declaration setting forth such estimated taxable income together with payment of the estimated tax due thereon, if any. For taxable years beginning on or after January 1, 2005, declarations of estimated net profits from any business conducted within the City and payment of estimated City income tax thereon may be made by using the Ohio business gateway, as described in Ohio Revised Code Section 718.051, including any amendments or successor provisions thereto.

(1) Beginning January 1, 2003, such declaration shall be filed on or before April 15 of each year provided that the taxpayer was domiciled within the City on the first day of January of the current calendar year.

(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) Such declaration shall be filed upon a form furnished by, or obtainable from, the Finance Director or on a generic form prescribed by Ohio Revised Code Section 718.05, including any amendments or successor provisions thereto, which form or forms may require a statement that the taxpayer's declaration of estimated City taxable income equals the taxpayer's estimated federal taxable income as adjusted so that City taxable income includes only those items that are taxable under this chapter. Credit may be taken for City income tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax paid or payable to other taxing municipalities in accordance with the provisions of Section 181.07.

(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) Taxpayers shall remit payment of estimated taxes as follows:

(1) Not more than twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before April 15<sup>th</sup> disregarding any extension of the annual return or, in the case of an entity or a fiscal year taxpayer, the fifteenth day of the fourth month of such taxpayer's taxable year;

(2) Not more than forty-five percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before July 31<sup>st</sup> or, in the case of an entity or a fiscal year taxpayer, the fifteenth day of the sixth month of such taxpayer's taxable year;

(3) Not more than sixty-seven and one-half percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before October 31<sup>st</sup> or, in the case of an entity or a fiscal year taxpayer, the fifteenth day of the ninth month of such taxpayer's taxable year, and

(4) Not more than ninety percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before January 31<sup>st</sup> of the following year or, in the case of an entity or a fiscal year taxpayer, the fifteenth day of the twelfth month of such taxpayer's taxable year.

(c) On or before the fifteenth 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 of City income tax which may be due the City shall be paid therewith in accordance with the provisions of Section 181.04.

(d) If a taxpayer's total estimated City income tax payments do not equal at least ninety percent (90%) of the taxpayer's tax liability as established on the taxpayer's annual City income tax return for the current tax year, or the taxpayer's total estimated City income tax payments for the current tax year

do not equal one hundred percent (100%) of the taxpayer's tax liability (before allowable credits and deductions for estimated payments) for the immediately preceding tax year, interest shall be assessed at the following rates and in the following manner:

(1) The lesser of:

A. 90% of the taxpayer's annual tax liability prior to deductions for estimated payments and allowable credits for the current tax year, or

B. 100% of the taxpayer's annual tax liability prior to deductions for estimated payments and allowable credits for the immediately preceding year, shall be divided by four (4) to determine the amount of tax which should have been paid quarterly on an estimated basis. The difference between the amount of tax which should have been paid quarterly on an estimated basis and the amount of tax actually paid quarterly on an estimated basis shall be subject to interest of one and one-half percent (1½ %) per month or fraction thereof from the due date of each quarterly installment to the date the annual return is due or the tax paid thereon, whichever is earlier.

(2) In the event that the taxpayer provides satisfactory evidence to the Director of Finance that the taxpayer's annual income fluctuated in such a manner that the interest set forth in subsection (d)(1) hereof should not be imposed, the Finance Director may waive any portion of such interest upon request of the taxpayer and submission of evidence of such fluctuation to the Finance Director.

(Ord. 2005-043. Passed 12-20-05.)

**181.07 RELIEF AND RECIPROCITY PROVISIONS.**

It is the intent of this section that a taxpayer subject to tax in more than one municipality on the same income, who has complied with the provisions hereof, shall not be required by this chapter to pay a total municipal income tax on such income greater than the tax imposed at the higher rate.

Accordingly, notwithstanding any other provisions of this chapter:

(a) Residents. When a resident is subject to and has paid or has acknowledged liability for, an income tax in another taxing municipality or state, except the State of Ohio or a state which has a reciprocity agreement with the State of Ohio, on the same income taxable under this chapter and such other taxing municipality or state, except the State of Ohio or a state which has a reciprocity agreement with the State of Ohio, does not allow a credit to its nonresidents, such resident may claim a credit of the amount of such tax paid to the other taxing municipality or state, except the State of Ohio or a state which has a reciprocity agreement with the State of Ohio, but not in excess of the tax assessed by this chapter.

(b) A resident owner of a pass-through entity that has paid, or has acknowledged liability for, an income tax in another municipality or state, except the State of Ohio or a state which has a reciprocity agreement with the State of Ohio, may claim a credit equal to the lesser of the following amounts:

(1) The resident owner's proportionate share of the amount, if any, of income tax paid by the pass-through entity to such other municipal corporation or state; or

(2) The resident owner's proportionate share of the amount of City income tax that would be imposed, if the business had been conducted in the City, on the same income of the pass-through entity that is subject to tax in such other municipal corporation or state.

In no case shall the credit authorized by this subsection (b) exceed the City income tax assessed under this chapter on such income.

(c) Where applicable, the credits provided by Ohio Revised Code Sections 718.021 (credit for qualifying losses on nonqualified deferred compensation plans) and 718.121 (credit for tax paid to first taxing municipality when City assessment comes after expiration of statute of limitation for refund claims to first taxing municipality) shall be available to residents.

(d) Nonresidents. Except as provided in Section 181.05(n) and in Ohio Revised Code Sections 718.021 and 718.121, when a nonresident is subject to the tax imposed by this chapter and is also subject to tax on the same income in the municipal corporation in which the nonresident resides, such nonresident shall not be allowed any credit against or claim of refund for City income tax, and the City will not acknowledge or allow any claim for refund of any portion of the City income tax so levied.

(e) The credits provided for in this Section 181.07 will not be allowed unless the same are claimed in a timely return or form acceptable to and filed with the Finance Director. In the event a taxpayer fails, neglects or refuses to file such timely return or form, he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this chapter, together with such interest and penalties, both civil and criminal, as are prescribed in this chapter.

(f) No credit shall be given for any income tax paid to a school district.

(Ord. 2005-043. Passed 12-20-05.)

**181.08 DUTIES OF THE FINANCE DIRECTOR.**

(a) It shall be the duty of the Finance Director 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 moneys so received.

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

(c) The Finance Director is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments.

(d) In any case where a taxpayer or employer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Finance Director may assess the amount of tax appearing to be due the City from the taxpayer or such employer and shall send by certified mail to the last known address of such taxpayer or such employer a written statement showing the amount of tax so determined, together with interest and penalties thereon. If the taxpayer or such employer fails to respond to the assessment within 30 days of receipt, then the tax assessed shall become due and payable and collectible as are other unpaid taxes.

(e) The Finance Director may charge a taxpayer a fixed fee for any check returned by a financial institution due to insufficient funds, closed account, or any other reason. Notice of the amount of the fee to be charged shall be posted in public view in the Tax Office.

(f) The Finance Director shall review the outstanding balances of taxes due the City or credited to a taxpayer on an annual basis. If, in the determination of the Finance Director, any taxes owed or amounts credited to the taxpayer are deemed to be uncollectible or non-refundable, the Finance Director may authorize the proper accounting entries to delete the uncollectible balances owing or non-refundable credits from the books of the City, subject to the approval of the Law Director.

(Ord. 2005-043. Passed 12-20-05.)

**181.09 BOARD OF REVIEW.**

(a) A Board of Review, consisting of three members to be appointed by the Mayor with the approval of Council, is hereby created. No member shall be appointed to the Board of Review who holds other public office or appointment. A majority of the members of the Board shall constitute a quorum. The Board shall elect its own chairman, adopt its own procedural rules and designate a secretary who shall keep a record of its transactions. Such records are not public records available for inspection under Ohio Revised Code Section 149.43, including any amendments or successor provisions thereto.

(b) Any hearing by the Board of Review may be conducted privately and shall be conducted privately upon the request of the taxpayer being heard. The provisions of Section 181.10 with regard to the confidential character of information disclosed at such hearing and the penalties for unauthorized divulgence of such confidential information shall apply to such matters as are heard privately before the Board of Review on appeal or otherwise.

(c) All rules and regulations and amendments or changes thereto, which are adopted by the Director under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Director and, at the request of the taxpayer or Director, is empowered to substitute alternate methods of allocation.

(d) Effective January 1, 2001, any taxpayer dissatisfied with any ruling or decision of the Finance Director which was made under the 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 thirty (30) calendar days from the issuance of such ruling or decision by the Finance Director. The appeal must state in writing the alleged errors in the Finance Director's ruling or decision. The Board must schedule a hearing within forty-five (45) calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to permit the Board to render its decision on the writings submitted by the taxpayer and the Finance Director. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring representation of his choosing. The records of the hearing are not open to the public nor is the hearing subject to the State's open meeting law. The Board must issue its written decision within ninety (90) calendar days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer/appellant and the Director within fifteen (15) calendar days after issuing the decision. If the Board fails to comply with the provisions of this section, the taxpayer's appeal will default in favor of the taxpayer but the default will not be on the merits of the issues. The taxpayer or the Director may appeal the Board's decision in accordance with Ohio Revised Code Sections 718.11 and 5717.011, including any amendments or successor provisions thereto.

(e) Whenever the Finance Director issues a decision that is appealable to the Board of Review, the Director must inform the taxpayer in writing of his right of appeal and the manner in which the appeal is to be filed.

(f) The terms of office of the members of the Board of Review, as hereinbefore created, shall be for a period of three years respectively, however, when the first Board is appointed, one member shall be appointed for one year, one member for two years and one member for three years. An appointment to fill a vacancy shall be only for the unexpired term and shall be made in the same manner as the original appointment. Members of the Board of Review shall be eligible for reappointment.

(g) The Board of Tax Review shall appoint a Clerk, who shall be a person other than the Clerk of

Council, to serve as the Clerk of the Board of Tax Review and who shall be the keeper of records and perform such other duties as the Board may assign.

(Ord. 2005-043. Passed 12-20-05.)

**181.10 FINANCE DIRECTOR AUTHORIZED TO INVESTIGATE; INFORMATION CONFIDENTIAL.**

(a) Examination of Records.

(1) The Finance Director or his duly authorized agent is hereby authorized to examine the books, papers, and records of any employer or of any taxpayer or person subject to tax for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Director, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(2) The Finance Director or his duly authorized agent is hereby authorized to compel any person, firm or entity to provide the Director with any information necessary for the Director to examine the books, papers, and records of the taxpayer or any employer within the City.

(b) Examination of Person. The Director or his duly authorized agent is hereby authorized to examine any person, employer or employees under oath concerning any income which was or should have been returned for taxation, whether by questionnaire or otherwise.

(c) Confidentiality.

(1) Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City for official purpose.

(2) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes which includes the exchange of information with other tax authorities, and except in accordance with proper judicial order. Any person divulging such information shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both such fine and imprisonment. In addition to the above penalties, any employee of the City who violates the provision of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City.

(Ord. 2005-043. Passed 12-20-05.)



**181.11 INTEREST AND CIVIL PENALTIES.**

(a) Interest on Taxes Not Paid. All taxes imposed, including estimated taxes, withholding and/or net profit taxes remaining unpaid after they become due, shall bear interest at the rate of 1 ½% per month or fraction thereof until paid in full. No such interest shall be assessed on an audit adjustment when the return has been timely filed and the tax due thereon has been paid at the time of filing.

(b) Penalties.

(1) For failure to file a quarterly withholding tax return when due: 5% per month or fraction of a month, not to exceed 50% of the tax withheld or estimated withholding, as determined by the Finance Director.

(2) For failure to remit taxes withheld from employees when due: 5% per month or fraction of a month, not to exceed 50% of tax withheld.

(3) For failure to file any annual return or annual reconciliation upon the day due: twenty-five dollars (\$25.00).

(4) For failure to file an estimated declaration as stated in the provisions of Section 181.06: twenty-five dollars (\$25.00).

(5) For failure to return a completed questionnaire within fifteen days from the date of the questionnaire: twenty-five dollars (\$25.00).

(c) The Finance Director may abate penalties and/or interest for good cause shown by a taxpayer in an amount not to exceed \$500.00 per annual tax return or per quarterly withholding tax return.

(Ord. 2005-043. Passed 12-20-05.)

**181.12 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENT.**

(a) 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 be brought within three years after the tax was due or the return was filed, whichever is later, in accordance with Ohio Revised Code Section 718.12(A), including any amendments or successor provisions thereto.

(b) Claims for refund of City income tax shall be made in writing within the time limitation provided in subsection (a) hereof, in accordance with Ohio Revised Code Section 718.12(C), including any amendments or successor provisions thereto. Amounts less than \$5.00 shall not be refunded to a taxpayer or credited against any City income tax liability.

(c) Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of the taxable income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense, in accordance with Ohio Revised Code Section 718.12(B), including any amendments or successor provisions thereto.

(Ord. 2005-043. Passed 12-20-05.)

**181.13 VIOLATIONS; CRIMINAL PENALTIES.**

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Finance Director; or
- (5) Refuse to permit the Finance Director or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Finance Director and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Finance Director; or
- (7) Refuse to disclose to the Finance Director any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Finance Director authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the City income tax withheld, or knowingly give the Finance Director 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) Whoever violates this section shall be guilty of a misdemeanor of the third degree.

(Ord. 2005-043. Passed 12-20-05.)

**181.14 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this chapter shall be disbursed as provided by Charter and ordinance.

(Ord. 2005-043. Passed 12-20-05.)

**181.15 APPLICATION OF ALLOCATION FORMULA.**

To determine the average apportionment percentage under Section 181.02(g) and Ohio Revised Code Section 718.02, including any amendments or successor provisions thereto, divide the total percentages by the number of percentages used. If an amount other than zero appears in the "located everywhere" column for any of the three factors set forth in Ohio R.C. 718.02, being property, gross receipts and wages, then each such factor results in a percentage used.

(Ord. 2005-043. Passed 12-20-05.)

**181.16 SEVERABILITY.**

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

(Ord. 2005-043. Passed 12-20-05.)

**181.17 TERM.**

This chapter shall continue effective insofar as the levy of taxes is concerned until revoked. This chapter, insofar as the collection of taxes levied during its effective period and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, shall continue effective for such time as indicated in Section 181.12.

(Ord. 2005-043. Passed 12-20-05.)

**181.081 QUESTIONNAIRE.**

(a) Whenever the Director of Finance has probable cause to believe that a person or business is residing or conducting business within the municipal limits of the City, the Director may cause a questionnaire to be forwarded to the address of such person or business inquiring into the length of time the person or business has been residing or conducting business within the municipal limits of the City, and further inquiring into any other subject necessary to provide for the proper collection of income taxes.

(b) Upon receipt of the questionnaire, the person or business shall answer the questionnaire and forward the same to the City within 15 days of receipt of the questionnaire.

(Ord. 2005-043. Passed 12-20-05.)



**181.082 DEPARTMENT OF TAXATION.**

A Department of Taxation is hereby created within the office of the Finance Director. The Department shall have deputies, clerks and other employees as may be from time to time determined by Council and shall receive such salary as may be determined by Council. The Director shall purchase all equipment, supplies and material for the Department. The Department shall be charged with the administration and operation of this chapter, under the direction of the Director. The Director shall prescribe the form and method of accounts and reports for the Department, as well as the forms for taxpayers' returns and declarations and shall be charged with the internal examination and audit of all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of receipt. The Director shall also make written report to Council annually of all moneys collected hereunder during the preceding year.

(Ord. 2005-043. Passed 12-20-05.)