

ORDINANCE NO. 19-14

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 191.15 BY REINSTATING THE 1 ½% CREDIT TO RESIDENTS FOR MUNICIPAL INCOME TAXES PAID TO ANOTHER MUNICIPALITY; AND, DECLARING AN EMERGENCY

Whereas, by Ordinance No. 14-13, Council reduced the credit in Codified Ordinance Section 191.15 allowed residents of the City who receive taxable income for work done or services performed or rendered outside of the City from 1 ½% to 1%; and,

Whereas, Council has determined that the credit should be restored to 1 1/2%.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION ONE: Codified Ordinance No. 191.15 is hereby amended to read as follows:

"191.15 Credit for Tax Paid to Another Municipality.

- a. Effective for tax year 2014, every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered in another municipality and who has paid an income tax directly to such municipality on such net profits, salaries, wages, commissions or other compensation shall be allowed a credit on the amount paid to such other municipality up to a maximum levy of 1 ½%; provided, however, such credit shall only be allowable to the extent such tax is paid to another municipality on the income subject to the tax imposed by this chapter; and provided further that no credit shall be allowable for any overpayment of tax to another municipality. The credit shall not exceed the 1 ½% tax assessed by this chapter on such net profits, salaries, wages, commissions or other compensation earned in such municipality where such tax is paid.
- b. A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide."

SECTION TWO: Existing Codified Ordinance 191.15 is hereby repealed.

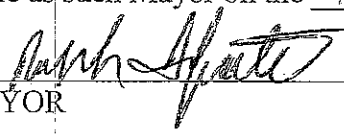
SECTION THREE: This ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare, for the reason that Council desires to have this legislation to assure affected taxpayers of this relief effective at the earliest possible date. As such an emergency measure, this ordinance shall take effect upon passage by Council and approval by the Mayor.


PRESIDENT OF COUNCIL

PASSED: July 16, 2014

ATTEST: 
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the 16 day of July, and signed by me as such Mayor on the 16 day of July.


MAYOR

ORDINANCE NO. 14-13

AN ORDINANCE AMENDING CODIFIED ORDINANCE NO. 191.15 BY REDUCING THE CREDIT TO RESIDENTS FOR MUNICIPAL INCOME TAXES PAID TO ANOTHER MUNICIPALITY; AND, DECLARING AN EMERGENCY

Whereas, existing Codified Ordinance Section 191.15 allows residents of the City who receive taxable income for work done or services performed or rendered outside of the City a credit against the City income tax in the amount so paid by the resident to such other City; and,

Whereas, due to reductions in income tax realized by the City, as well as severe reductions in amounts the City receives in other revenues for the last four years, Council has found the need to look for other sources of revenue in order to maintain the services it has been able to provide over the years; and,

Whereas, Council and the administration have determined that a reduction in the amount of the income tax credit would generate additional revenue for the City needed to maintain its level of services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NILES, STATE OF OHIO:

SECTION ONE: Codified Ordinance No. 191.15 is hereby amended to read as follows:

"191.15 Credit for Tax Paid to Another Municipality.

- a. Effective for tax year 2013, every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered in another municipality and who has paid an income tax directly to such municipality on such net profits, salaries, wages, commissions or other compensation shall be allowed a credit on the amount paid to such other municipality up to a maximum levy of 1%; provided, however, such credit shall only be allowable to the extent such tax is paid to another municipality on the income subject to the tax imposed by this chapter; and provided further that no credit shall be allowable for any overpayment of tax to another municipality. The credit shall not exceed 1% of the 1.5% tax assessed by this chapter on such net profits, salaries, wages, commissions or other compensation earned in such municipality where such tax is paid.
- b. A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide."

SECTION TWO: Existing Codified Ordinance ^{191.15} is hereby repealed.

SECTION THREE: This ordinance is hereby declared to be an emergency measure in the interests of the public health, safety and welfare, for the reason that Council desires to have this legislation effective as soon as possible to assist the City in continuing to provide the best level of services possible for its residents. As such an emergency measure, this ordinance shall take effect upon passage by Council and approval by the Mayor.

Robert M. Marino Jr.
PRESIDENT OF COUNCIL

PASSED: 5 July 2013

ATTEST: Stephen C. Papaloo
CLERK OF COUNCIL

Filed with the Mayor of the City of Niles, Ohio on the 5th day of July, 2013 and signed by me as such Mayor on the 5th day of July, 2013.

Joseph A. [Signature]
MAYOR

CHAPTER 191
Earned Income Tax

- 191.01 Purpose.**
- 191.02 Definitions.**
- 191.03 Imposition of tax.**
- 191.04 Effective period.**
- 191.05 Return and payment of tax.**
- 191.06 Collection at source.**
- 191.07 Declarations.**
- 191.08 Duties of the Administrator.**
- 191.09 Investigative powers of the Administrator; penalty for divulging confidential information.**
- 191.10 Interest and penalties.**
- 191.11 Collection of unpaid taxes and refunds of overpayments.**
- 191.12 Penalty.**
- 191.13 Board of Review.**
- 191.14 Allocation of funds.**
- 191.15 Credit for tax paid to another municipality.**
- 191.16 Severability.**
- 191.17 Collection of tax after termination of chapter.**

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3

Payroll deductions - see Ohio R.C. 9.42

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

Income Tax Division - see ADM. 135.02, 135.03

191.01 PURPOSE.

(a) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of this Municipality, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(b) The additional funds obtained in the General Fund from the one half of one percent (.5%) income tax assessment passed by Council and approved by the voters in 1990 shall be used solely for the purpose of providing additional funds in the General Fund for the staffing and operation of the Police and Fire Departments only, and for no other purpose; and, such additional funds shall be allocated between the Police and Fire Department on a 50-50 basis.

191.02 DEFINITIONS.

(a) 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.

(1) "Administrator" means the City Treasurer or any employee authorized by the City Treasurer.

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

(3) "Board of Review" means the Board created by and constituted as provided in Section 191.13 herein.

(4) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity including but not limited to the renting or leasing of property, real, personal or mixed.

(5) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State, or any other state, territory or foreign country or dependency.
(Ord. 53-83. Passed 7-20-83.)

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

(7) "Employer" means 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.

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

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

(10) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, federal, State and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; 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 chapter.

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

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

(13) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

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

(15) "Resident" means an individual domiciled in the City.

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

(17) "Taxable income" means wages, salaries 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 chapter.

(18) "Taxable year" means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

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

(Ord. 163-76. Passed 12-30-76.)

(20) The singular shall include the plural and the masculine shall include the feminine and the neuter.

(21) Salaries, wages, commissions, and other compensation, means the compensation received by an employee from an employer for conducting a business activity, whether that compensation is generated by an activity which is for profit or for non-profit, and shall specifically include sick pay benefits, and similar compensation which shall be a substitute for wages in accordance with the regulations promulgated by the Administrator, but shall specifically exclude Workers' Compensation Benefits and Social Security Disability Benefits.

(Ord. 53-83. Passed 7-20-83.)

191.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 191.16, an annual tax for the purposes specified in Section 191.01 shall be imposed on and after June 1, 1990, at the rate of one and one-half percent per annum upon the following:

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

(2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by non-residents who are employees of an employer which has an office or place of business within the City of Niles.

(3) For individuals who are non-residents of the City employed by an employer who does not have an office or place of business within the City, the tax shall be imposed on all salaries, wages, commissions and other compensation earned during the effective period of this chapter by such non-residents for work done or services performed or rendered in this Municipality.

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

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

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

B. On the portion of the distributive share of net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

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

(7) No landlord shall be permitted to exclude any portion of his net rental income from the imposition of the tax levied by this chapter.

(8) A person, firm, partnership, joint venture, or corporation shall only be permitted to deduct legitimate and recognized business expenses to the extent of the income earned by that enterprise. No

such business enterprise shall be permitted to obtain a net loss from such business activity to offset income from salaries, wages, commissions and other compensation, as defined within this chapter. No such business enterprise shall be permitted to carry forward and use a business loss for one tax year against taxable business income for any subsequent tax year. The administrator is specifically empowered to promulgate regulations to enforce the provisions of this subsection.

(Ord. 89-91. Passed 12-17-91.)

(9) Effective June 1, 2004, on all proceeds in excess of twenty-five thousand dollars (\$25,000) from lotteries, gaming, wagering, or schemes of chance, received by residents of the City of Niles, or received by nonresidents of the City within the City, or on the basis of activity conducted within the City. Such proceeds are specifically intended to include, but are not limited to, contests or games commissioned, conducted or administered by the State of Ohio, any other state, the government of the United States or any of its territories, or any multi-state lottery association or similar agency.

(Ord. 19-04. Passed 5-19-04.)

(b) All lessors or landlords, corporate or personal, are required to report to the City Income Tax Office the names and addresses of lessees or tenants of any real estate, whether residential, commercial or industrial.

(c) All contractors or employers engaged in work within the corporate limits of the City are required to provide the City Income Tax Office with a list of all the subcontractors and employees employed for jobs or construction within the City.

(d) The portion of the net profits attributable to this municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

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

(2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to this Municipality.

(Ord. 163-76. Passed 12-30-76.)

(f) The tax provided for herein shall not be levied upon any individual, institution or organization exempted under the provisions of Ohio R.C. 718.01(F), as amended from time to time.

(Ord. 5-01. Passed 1-3-01.)

191.04 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities

earned on and after January 1, 1977.

(Ord. 163-76. Passed 12-30-76.)

191.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this section is such salary, wages, commissions or other compensation.

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

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

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

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

(Ord. 163-76. Passed 12-30-76.)

(c) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the individual or office of the City Income Tax Administrator. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed by subsection (a) hereof. Any extension granted shall be for a period ending the last day of the month following the month to which the due date of the federal income tax return has been extended. The Administrator may deny a taxpayer's request for extension only if the taxpayer fails to timely file the extension request, fails to file a copy of the request for the federal extension, owes the City any delinquent income tax or penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(Ord. 7-07. Passed 3-7-07.)

(d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 191.06 or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 191.07 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 191.15, 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 the return.

(2) A taxpayer who has overpaid the amount of tax to which this Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability

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

(e) (1) Where necessary an amended return must be filed in order to report additional income and pay additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 191.11 and 191.15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 163-76. Passed 12-30-76; Ord. 49-03. Passed 11-3-03.)

191.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one and one-half percent (1½%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last 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. Nonresident employers, their agents, or other payers of items of taxable income not situated within the City shall deduct and withhold taxes from the taxable income of an individual in accordance with the provisions of Ohio Revised Code Section 718.03. Such returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Each 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.

(Ord. 5-01. Passed 1-3-01.)

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

(c) On or before February 28 of each year beginning with the year 1977, each employer shall file a withholding return setting for the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) The tax Administrator for good cause may require immediate returns and payments to be submitted to his office.

(Ord. 163-76. Passed 12-30-76; Ord. 49-03. Passed 12-3-03.)

191.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 191.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 191.03

shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax shall be withheld and remitted to this Municipality in accordance with Section 191.06, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

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

(c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from the Administrator, provided, however, credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing Municipality.

(2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

(d) Such declaration or estimated tax to be paid this Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments or on before the remaining payment dates.

(e) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due this Municipality shall be paid therewith in accordance with the provisions of Section 191.05.

(Ord. 163-76. Passed 12-30-76; Ord. 49-03. Passed 11-3-03.)

191.08 DUTIES OF THE ADMINISTRATOR.

(a) (1) It shall be the duty of the City Income Tax 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.

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

(b) Such Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including

penalty and interest, to become payable on demand and the provisions of Sections 191.11 and 191.12 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due this Municipality from the taxpayer and shall send to such a taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 191.10.

(Ord. 163-76. Passed 12-30-76.)

191.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) 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 whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been reported 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.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject to presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 191.12.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this chapter or authorized by these rules and regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five

years from the date his return is filed, or the withholding taxes are paid.
(Ord. 163-76. Passed 12-30-76.)

191.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one-half of one percent ($\frac{1}{2}\%$) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld: one and one-half percent ($1\frac{1}{2}\%$) per month or fraction thereof.

(2) For failure to remit taxes withheld from employees: five percent (5%) per month or fraction thereof.

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

(Ord. 163-76. Passed 12-30-76.)

(d) (1) In addition to interest and penalties otherwise assessed under this section, a penalty of fifty dollars (\$50.00) shall be assessed against any taxpayer who fails to timely file a return as required under this Chapter;

(2) In addition to interest and penalties otherwise assessed under this section, a penalty of fifty dollars (\$50.00) shall be assessed against any taxpayer who fails to timely pay taxes due pursuant to this chapter.

(Ord. 4-06. Passed 2-15-06.)

(e) In addition to any other charges for interest and/or penalties which may be applicable, a charge of twenty dollars (\$20.00) shall be added to the tax due when any check in payment of taxes, interest and/or penalties is returned unpaid by the bank.

(Ord. 53-87. Passed 11-18-87.)

(f) Upon careful consideration, the Administrator may abate penalty or interest, or both or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest or both.

(Ord. 163-76. Passed 12-30-76.)

191.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in subsection (a) hereof.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 163-76. Passed 12-30-76.)

191.12 PENALTY.

(a) Any person who:

- (1) Fails, neglects or refuses to make any return or declaration required by this chapter; or
 - (2) Makes any incomplete, false or fraudulent return; or
 - (3) Willfully fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
 - (4) Willfully fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or
 - (5) Refuses to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
 - (6) Fails to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
 - (7) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
 - (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
 - (9) Gives to an employer false information as to his true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
 - (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Municipality's income tax withheld or knowingly gives the Administrator false information; or
 - (11) Attempts to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; or
 - (12) Fails to comply with Section 191.03(b) and (c) relative to the providing of information concerning rentals and employment of personnel and subcontractors;
- shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

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

(Ord. 163-76. Passed 12-30-76.)

191.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor, Law Director and Auditor, is hereby created.

(b) A majority of the members of the Board present at a meeting shall constitute a quorum.

(c) The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records of transactions are not public records available for inspection under Ohio R.C. 149.43. Hearings requested by a taxpayer before the Board of Review are not meetings of a public body subject to Ohio R.C. 121.22. The provisions of Codified Ordinance Section 191.09 with reference to the confidential character of information permitted to be disclosed by this Chapter shall apply to such matters as may be heard before the Board on appeal.

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

(e) Whenever the Administrator issues a decision regarding a municipal income tax obligation that is subject to appeal as provided in this section, or a regulation of the City Income Tax Department, the Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(f) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the City Income Tax Department the required returns or other documents pertaining to the City income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Administrator issues the decision complained of.

(g) The Board shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(h) The Board may affirm, reverse or modify the Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the Petitioner within fifteen days after issuing the decision.

(Ord. 15-01. Passed 1-3-01.)

191.14 ALLOCATION OF FUNDS.

Revenues collected under the provisions of this chapter shall be deposited in the General Fund of the City of Niles, Ohio, and shall be used for the following purposes and in the following order.

(a) The first priority shall be given to the payment of all bona fide refunds as determined by the

administrator or his designate.

(b) The entire balance of the income tax revenues shall be used to meet the payroll and other obligations of each and every department of the City of Niles, Ohio, as determined and allocated in accordance with its ordinances and resolutions by Council.

(Ord. 10-87. Passed 2-18-87.)

191.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Effective for tax year 2013, every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered in another municipality and who has paid an income tax directly to such municipality on such net profits, salaries, wages, commissions or other compensation shall be allowed a credit on the amount paid to such other municipality up to a maximum levy of 1%; provided, however, such credit shall only be allowable to the extent such tax is paid to another municipality on the income subject to the tax imposed by this chapter; and provided further that no credit shall be allowable for any overpayment of tax to another municipality. The credit shall not exceed 1% of the 1.5% tax assessed by this chapter on such net profits, salaries, wages, commissions or other compensation earned in such municipality where such tax is paid.

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

(Ord. 14-13. Passed 7-5-13.)

191.16 SEVERABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 163-76. Passed 12-30-76.)

191.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 191.11 and 191.12.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 191.05 and 191.06 as though the same were continuing.

(Ord. 163-76. Passed 12-30-76.)