

CHAPTER 171 Income Tax

- 171.01** Purpose.
- 171.02** Definitions.
- 171.03** Imposition of tax.
- 171.04** Effective period.
- 171.05** Return and payment of tax.
- 171.06** Collection at source.
- 171.07** Declarations.
- 171.08** Duties of the Tax Administrator.
- 171.09** Investigative powers of Administrator; penalty for divulging confidential information.
- 171.10** Interest and penalties.
- 171.11** Collection of unpaid taxes and refunds of overpayments.
- 171.12** Violations; penalties.
- 171.13** Board of Review.
- 171.14** Allocation of funds.
- 171.15** Credit for tax paid to another municipality. (Repealed)
- 171.16** Saving clause.
- 171.17** Collection of tax after termination of chapter.
- 171.18** Continuity clause.
- 171.19** Emergency clause.

CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XII, Sec. 8
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718

171.01 PURPOSE.

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 and commissions and other compensation, and net profits as hereinafter provided.

(Ord. 10-2001. Passed 3-19-01.)

171.02 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 person appointed by the Auditor for the purpose of implementing the provisions of this chapter. The Tax Administrator shall perform the duties and have the powers and authority as set forth in this chapter. The Auditor shall also appoint all other employees in the Tax Department.

(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 [171.13](#).

(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 of Ohio, or any other state, territory or foreign country or dependency.

(6) “Employee” means one who works for wages, salary or commission or other type of compensation in the service 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 and including the officers and senior resident manager, who or that employs one or more persons on a salary, wage commission or other compensation basis.

(8) “Fiscal year” means a period of twelve months or less ending on any day other than December 31.

(9) “Form 2106” means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code, as amended.

(10) “Generic form” means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation’s tax on income.

(11) “Gross receipts” means the total income of taxpayers from any source whatsoever.

(12) “Intangible income” means income of any of the following types: income yield, interest, 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.

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

(14) “Internet” means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork known as the World Wide Web.

(15) “Municipality” means the City of North College Hill, Ohio.

(16) “Net Profits” mean a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses authorized by this chapter either paid or accrued in accordance with the provisions of this chapter and the rules and regulations set forth by the Administrator, 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.

(17) “Nonresident” means an individual domiciled outside this municipality.

(18) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within this Municipality.

(19) “Other payer” means any person that pays an individual any item included in the taxable income of the individual, other than the individual’s employer or that employer’s agent.

(20) “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, means the partners or members thereof, as applied to corporation, the officers

thereof.

(21) “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.

(22) “Resident” means an individual domiciled in this Municipality.

(23) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within this Municipality.

(24) “Return preparer” means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.

(25) “Schedule C” means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code, as amended.

(Ord. 10-2001. Passed 3-19-01.)

(26) “Taxable income” means wages, salaries, and other compensation paid by an employer or employers before any deductions, as shown in the Medicare box of the W-2 form, lottery winnings 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.

(Ord. 28-2004. Passed 12-20-04.)

(27) “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.

(28) “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.

(b) The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 10-2001. Passed 3-19-01.)

171.03 IMPOSITION OF TAX.

The tax imposed by this chapter varies in some respects from the income tax imposed by the Congress of the United States. The rules and regulations imposed by the Municipal Income Tax Administrator need not correspond to those imposed by the Internal Revenue Service.

(a) Subject to the provisions of Section [171.16](#), an annual tax for the purposes specified in Section [171.01](#) shall be imposed on and after January 1, 2003 at the rate of one and one-half percent (1.5%) per annum upon the following:

(Ord. 32-2002. Passed 12-16-02.)

(1) On all salaries, wages, including sick, vacation pay and severance pay, commissions and other compensation, including deferred earned income and stock options as shown in the Medicare box of the W-2 form, earned during the effective period of this chapter by residents of this Municipality. On all lottery winnings received by residents of this Municipality during the effective period of this chapter.

(2) On all salaries, wages, including sick, vacation pay and severance pay, commissions, and other compensation, including deferred earned income and stock options, earned by nonresidents for work done or services performed or rendered in this Municipality, during the effective period of this chapter, as shown in the Medicare box of the W-2 form.

(Ord. 28-2004. Passed 12-20-04.)

(3) 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 or services 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.

(4) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all nonresident 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 the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

(5) 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.

(6) Losses from the operation of a business or profession are not deductible from employee earnings but may be carried forward as provided in Section [171.03](#) (c).

(b) 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.

(c) 12-Day Occasional Entry Rule.

(1) The City of North College Hill shall not tax the compensation of an individual if all of the following apply:

A. The individual does not reside in the City of North College Hill.

B. The compensation is paid for personal services performed by the individual in the City of North College Hill on twelve (12) or fewer days during the calendar year;

C. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City of North College Hill and the individual pays tax on compensation described in Section [171.03](#)(a) (2) of this ordinance to the city, if any in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;

D. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, as all may be reasonably defined by the City of North College Hill.

(d) Operating Loss Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to 1984 allocable to this Municipality may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted but in no event for more than three years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to this Municipality in the same manner as provided herein for allocating net profits to this Municipality.

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

(e) Consolidated Returns.

(1) Filing of consolidated returns, provided they clearly show the income and expenses attributable to this Municipality alone, 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 other corporations related by stock ownership, interlocking directorates, or some other method, or in case a 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.

(f) Exception. The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section.

(g) Capital Gains. Capital gains from the sale of depreciable property shall be taxable to the extent of the aggregate amount of depreciation taken on such property for municipal income tax purposes. (Ord. 10-2001. Passed 3-19-01.)

171.04 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, 1968.

(Ord. 10-2001. Passed 3-19-01.)

171.05 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 section, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the 15th day of the fourth month 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 such 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 by any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation. (Ord. 28-2004. Passed 12-20-04.)

(1) Failure to file a return even though no tax is due is subject to penalty as defined in Section [171.10](#).

(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 such tax;

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

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

(4) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to this Municipality alone.

(c) Generic Form. The City of North College Hill shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of the information required to be submitted with the City of North College Hill's prescribed returns, reports or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the City of North College Hill governing the filing of returns, reports or documents.

(d) Extensions.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a City of North College Hill tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Administrator.

(2) Any taxpayer not required to file a federal income tax return may request an extension for filing a City of North College Hill tax return in writing.

(3) The request for extension shall be filed not later than the last day for filing the City of North College Hill tax return as prescribed by ordinance or rule of this municipal corporation.

(Ord. 10-2001. Passed 3-19-01.)

(4) A valid extension request extends the due date for filing a return seven (7) months from the original due date of such return.

(Ord. 28-2004. Passed 12-20-04.)

(5) The City of North College Hill may deny a taxpayer's request for extension if the taxpayer:

A. Fails to timely file a request.

B. Fails to file a copy of the federal request for extension (if applicable).

C. Owes the City of North College Hill any delinquent income tax, or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;

D. Has failed to file any required income tax return, report or other related document for a prior tax period.

(6) The granting of an extension for filing a City of North College Hill income tax return does not extend the last date for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section [171.10](#). No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Administrator shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it becomes evident that 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 had been granted.

(e) (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 [171.06](#), or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section [171.07](#), or where an income tax has been paid to another municipality, credit for the amount so paid in

accordance with Section [171.15](#) 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 such 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.

(f) (1) Amended Returns. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections [171.11](#) and [171.15](#). Such amended returns shall be on a form obtainable on request from the Tax 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 determination of Federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 10-2001. Passed 3-19-01.)

171.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, at the time of the payment of such salary, wage, commission or other compensation, the tax of one and one-half percent (1.5%) 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. 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. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Such employer, in collecting such 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) \$150 Deminimus Rule.

(1) A nonresident employer, agent of such employer, or other payer that is not situated in the City of North College Hill shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the City of North College Hill on account of all of the employer's or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year.

(2) If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year, the employer, agent of such an employer or the payer must deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuring years is one hundred fifty dollars (\$150) or less, until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150) or less for three (3) consecutive years.

(d) It shall be the responsibility, jointly and severally, of the president and the treasurer of each corporation, required to withhold the tax from wages of its employees, under this section, to see that all such taxes so withheld are paid to this Municipality in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to this Municipality in accordance with the provisions of this section, the president and treasurer of such corporation shall each be criminally liable under the provisions of Section [171.12](#).

(Ord. 10-2001. Passed 3-19-01.)

(e) On or before February 28 of each year beginning with the year 2005, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on form 1099 or other form as required by the Tax Administrator.

(Ord. 28-2004. Passed 12-20-04.)

(f) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office. (Ord. 10-2001. Passed 3-19-01.)

171.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section [171.06](#), or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section [171.03](#) 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 hereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with Section [171.06](#), such person need not file a declaration. (Ord. 10-2001. Passed 3-19-01.)

(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 the tax for the first time.

(Ord. 28-2004. Passed 12-20-04.)

(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 declarations 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 [171.15](#), 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 equal to or greater than the tax paid last year to this Municipality shall be accompanied by a payment of at least one fourth of the net estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year. Provided however that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining due dates. Failure to file such a declaration or pay at least twenty-five percent (25%) of

the amount declared shall subject the taxpayer to the interest and penalties provided for in Section [171.10](#); such assessments shall begin to run on the day following the due date of such declaration.

(1) An amended declaration may be filed with the filing of any quarterly return. If it appears that the original declaration and payments underestimated the taxpayer's income by thirty percent (30%) or more, the difference between seventy percent (70%) of such taxpayer's tax liability and the amount of estimated tax he actually paid on or before December 31, or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section [171.10](#) hereof.

(Ord. 10-2001. Passed 3-19-01.)

(e) On or before the 15th 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 [171.05](#).

(Ord. 28-2004. Passed 12-20-04.)

171.08 DUTIES OF THE TAX ADMINISTRATOR.

(a) (1) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

(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 make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations 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 re-examination and correction of returns. The Administrator 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 Section [171.11](#) and [171.12](#) 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 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 such Board, the Administrator shall have the power to compromise any interest or penalty or both, imposed by Section [171.10](#). (Ord. 10-2001. Passed 3-19-01.)

171.09 INVESTIGATIVE POWERS OF 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 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 or withholding 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, State, County and Municipal 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 such books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any office, 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 [171.12](#).

(d) Any information gained as a result of any returns, investigation, 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 to Municipal, County, State or Federal taxing agencies or 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.

(f) All landlords, owners and management companies of apartments, office complexes and warehouse operations are required to remit upon request of the *Administrator* a current listing of tenants showing names, addresses, telephone numbers, if available, and dates of move in or move out. (Ord. 10-2001. Passed 3-19-01.)

171.10 INTEREST AND PENALTIES.

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

(b) In addition to the interest as provided in subsection (a) hereof, the following penalties are hereby imposed:

(1) For failure to pay the full amount of tax due other than taxes withheld; a penalty of the greater of: twenty-five dollars (\$25.00), or one and one-half percent (1½%) per month or fraction

thereof, of the amount of the unpaid tax. The percentage herein specified shall apply from the first month of delinquency.

(2) For failure to remit taxes withheld from employees; a penalty of the greater of fifty dollars (\$50.00) or five percent (5%) per month or fraction thereof, of the unpaid withholding. The percentages herein specified shall apply from the first month of delinquency.

(3) In the case of taxpayers required to file declarations and pay the estimated tax quarterly, if such taxpayers fail to pay within one month after the close of the tax year at least seventy percent (70%) of the tax finally determined to be due for such year, a penalty of one percent (1%) per month, or fraction thereof, of the amount representing the difference between the amount of estimated tax prior to the close of the tax year and seventy percent (70%) of the amount of tax finally determined to be due for such year.

(4) A taxpayer's failure to file or request an extension of time to file on or before the filing date is subject to a twenty-five dollar (\$25.00) penalty for the first offense. The penalty for a second offense is fifty dollars (\$50.00). All subsequent offenses will be penalized one hundred dollars (\$100.00).

(5) A taxpayer's failure to provide the Administrator with any of the following documents shall subject the taxpayer to a penalty of twenty-five dollars (\$25.00).

- A. Resident survey.
- B. Business survey.
- C. Rental tenant survey.

(c) Exceptions. 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.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon 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. 10-2001. Passed 3-19-01.)

171.11 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 suitor other lawful means as other debts of like amount are recoverable or collectible. No additional assessment shall be made after three years from the time of payment of any tax due hereunder; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Director of Internal Revenue and taxpayer have executed a waiver of the Federal statute of limitations the period within which additional assessment may be made by the Tax Administrator shall be extended one year from the time of the final determination of the Federal tax liability.

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

(Ord. 10-2001. Passed 3-19-01.)

(c) Amounts of less than two dollars (\$2.00) shall not be collected or refunded.

(Ord. 28-2004. Passed 12-20-04.)

(d) No refund shall be made to any taxpayer until he has complied with all provisions of this chapter and has furnished all information required by the Administrator.

(e) Overpayments will be either refunded or credited to the taxpayer's current year's liability at his option. Overpayments of any year's taxes shall be applied as follows:

- (1) To taxes owed for any previous years in the order in which such taxes become due;
- (2) To the current estimated tax liability. (Ord. 10-2001. Passed 3-19-01.)

171.12 VIOLATIONS; PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this
- (4) Fail, neglect or refuse to withhold the tax from his employee or remit such withholding to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or his employer's 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 Administrator and to produce his or his employer's books, records, papers or Federal income tax returns upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to such person's or such person's employer's income or net profits; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Fail, neglect or refuse to make any payment on the estimated tax for any
- (10) Fail, as president or treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this chapter to be paid to this Municipality in accordance with the provisions of Section [171.06](#); or
- (11) Fail to use ordinary diligence in maintaining proper records of employees' resident address, total wages paid, and this Municipality's income tax withheld, or to knowingly give to the Administrator false information; or
- (12) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; shall be guilty of a misdemeanor of the third degree, penalized as provided for in the Ohio Revised Code and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days 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, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

(d) The term “person” as used in this section shall, in addition to the meaning prescribed in Section [171.02](#), include in the case of an association or corporation not having any partner, member or officer within this Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of this Municipality.

(Ord. 10-2001. Passed 3-19-01.)

171.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals to be appointed by the Mayor of the City of North College Hill is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. Any hearing by the Board may be conducted privately and the provisions of Section [171.09](#) with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board on appeal.

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

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter, and who has filed with the City of North College Hill the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision, may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, having jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(d) The imposition of penalty and interest as prescribed in the Codified Ordinances of the City of North College Hill is not a sole basis for an appeal.

(e) The Board of Review shall schedule a hearing within forty-five days (45) after receiving the request, unless the taxpayer waives a hearing.

(f) 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.

(g) The Board may affirm, reverse, or modify the Tax Administrator’s decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board’s final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

(Ord. 10-2001. Passed 3-19-01.)

171.14 ALLOCATION OF FUNDS.

The funds collected under this chapter shall be placed in the General Fund and shall be applied for the following purposes and in the following order;

(a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of administering and enforcing the provisions thereof.

(b) Such part thereof as is necessary for the purpose of paying any refunds payable under this chapter.

(c) The balance of the funds so collected shall be used for such specific purposes as Council may appropriate from this fund, including without limitation, funds for general municipal operations and debt retirement, extension, enlargement or improvement of the municipal services and facilities, street improvement and repairs and permanent improvements. (Ord. 10-2001. Passed 3-19-01.)

171.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY. (REPEALED)

(EDITOR'S NOTE: Former Section [171.15](#) was repealed by Ordinance 35-2005, passed January 1, 2006.)

171.16 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any other 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. 10-2001. Passed 3-19-01.)

171.17 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 such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections [171.11](#) and [171.12](#).

(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 [171.05](#) and [171.06](#) as though the same were continuing. (Ord. 10-2001. Passed 3-19-01.)

171.18 CONTINUITY CLAUSE.

This chapter supersedes and repeals all existing ordinances and amendments thereof relating to a North College Hill municipal income tax, but shall not be construed or in any way interpreted to nullify or in any manner affect or invalidate any claim for taxes due or any amounts that shall be or have become due up to and including June 30, 1975, under provisions of Ordinance 2-1967, all of which shall remain in full force and effect until such taxes and amounts shall have been fully paid and accounted for. (Ord. 10-2001. Passed 3-19-01.)

171.19 EMERGENCY CLAUSE.

This chapter is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety and it shall go into effect forthwith. The reason for the emergency is the immediate necessity of levying the tax provided for herein in order to obtain revenue for the operation of the City of North College Hill government during the year 1968 and thereafter. (Ord. 10-2001. Passed 3-19-01.)