

CHAPTER 791
Municipal Income Tax Regulations Effective Through December 31, 2015

EDITOR'S NOTE: Continuation of the authority to tax a shareholder's distributive share of the net profits of an S Corporation to the same extent currently permitted by the City was approved by the voters on November 2, 2004.

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791.01 PURPOSE OF LEVY OF INCOME TAX.

For tax years through and including 2015, to provide funds for the purposes of general municipal functions of the City there shall be and is hereby levied a tax on gross income, including, but not limited to all income, salaries, wages, commissions and other compensations and on net profits as hereinafter provided.

(Ord. 262-1966. Passed 12-23-66; Ord. 228-2003. Passed 12-1-03; Ord. 207-2009. Passed 12-7-09; Ord. 151-2015. Passed 12-7-15.)

791.02 DEFINITIONS.

For the purposes of this chapter, the terms, phrases, words and their derivatives used herein shall have the meanings given in this section. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

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

"Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the City of Euclid Income Tax.

"Association" means any partnership, limited partnership, limited liability company, or any other form of unincorporated enterprise, including Subchapter S Corporations.

"Board of Review" means the Board created by and constituted as provided in Section 791.49.

"Business" means any enterprise, activity, profession or undertaking of any nature, conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.

"City" means the City of Euclid, Ohio.

"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, and any other entity that is formed under the relevant corporate laws of the territory in which it is incorporated but does not include any entity that falls within the definition of "association" under this chapter.

"Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

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

"Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on an income, salary, wage, commission or other basis of compensation.

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

"Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds, that contain all the information required on Euclid's regular tax return, estimated payment, and refund request forms, and are in a similar format that will allow processing of the generic forms without altering Euclid's procedures for processing forms.

"Gross receipts" means the total income from sales, work done or services rendered.

"Income" shall include all monies derived from any source whatsoever, including:

- (1) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the City.
- (2) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the City.
- (3) The portion attributable to the City of the net profits of all unincorporated businesses, associations, professions, corporations or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the City.

"Joint economic development district" means a district created under Ohio R.C. 715.70 through 715.83, as amended from time to time.

"Net profits" means, for taxable years prior to 2004, a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system (i.e. either cash or accrual) used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter, Federal, State, and other taxes based on income, and, in the case of an association, without deduction of salaries paid to partners and other owner. (For taxable years 2004 and later, see "Adjusted federal taxable income".)

"Nonresident" means an individual domiciled outside the City.

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

"Pass-through entity" means a partnership, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code. Unless otherwise specified, for purposes of this chapter the tax treatment for pass-throughs is the same as "association".

"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, and as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

"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 or her regular employees regularly in attendance.

"Resident" means an individual domiciled in the City.

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

"Taxable income" means all income minus deductions and credits allowed by this chapter. "Taxable income" includes any and all income earned or received by an individual or an entity, the taxation of which by the City is not prohibited by Federal law, State law, or not specifically exempted by Section 791.10 of this Chapter. "Taxable income" shall include, but is not limited to, wages, salaries, lottery winnings and other winnings from any and all types of gambling, as well as compensation earned by an employee before any deductions and/or the net profits from the operation of a business, profession, or other enterprise or any activity.

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

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

(Ord. 262-1966. Passed 12-23-66; Ord. 228-2003. Passed 12-1-03; Ord. 207-2009. Passed 12-7-09.)

791.03 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 791.01 shall be imposed on and after January 1, 1967, provided that on or after July 1, 1982, the rate of such tax shall be a total of two percent per annum, and provided, further, that on or after December 1, 1994, the rate of such tax shall be a total of two and eighty-five one hundredths percent (2.85%) per annum. Such tax shall be imposed upon the following income:

(a) On all income, salaries, wages, commissions, lottery winnings, gambling and sports winnings, income from games of chance and other compensation earned and/or received on and after January 1, 1967, by residents of the City. Lottery, gambling and sports losses shall be deductible against lottery, gambling and sports winnings, and the Administrator shall provide by rules and regulations the manner in which to determine such losses.

(b) On all income, salaries, wages, commissions and other compensation earned and/or received on and after January 1, 1967, by nonresidents of the City for work done or services performed or rendered within the City. Income earned and/or received as holiday, sick, and/or vacation pay is taxable to the City of Euclid. Separation pay, termination pay, reduction-in-force pay, and other compensation paid as a result of an employee leaving the service of an employer shall be allocable only to the City of Euclid. However, the City shall tax the income of a nonresident individual performing services in the City for 12 or fewer days (a day is considered a full day or any fractional part of a day) in a calendar year only if one of the following applies:

(1) The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days, and the individual is not liable to that other municipal corporation for tax on the compensation paid for such services.

(2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter, all as may be reasonably defined by the municipal corporation.

(c) (1) On the portion attributable to the City on the net profits earned on and after January 1, 1967, of all resident unincorporated

business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1967, of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity;

(d) (1) On the portion attributable to the City of the new profits earned on or after January 1, 1967, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City;

(2) On the portion of the distributive share of the net profits earned and/or received on or after January 1, 1967, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity;

(e) On the portion attributable to the City of the net profits earned on and after January 1, 1967, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

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

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

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

(g) Stock options given as compensation shall be taxed under Section 791.03(a) of this chapter. Stock options shall be taxed when exercised, regardless of the treatment by the Internal Revenue Service. The employer is required to withhold on the difference between the fair market value of the stock when exercised and the amount paid by the employee to exercise the option.

(Ord. 141-1982. Passed 6-21-82; Ord. 200-1994. Passed 8-22-94; Approved by Voters 11-8-94; Ord. 228-2003. Passed 12-1-03; Ord. 207-2009. Passed 12-7-09.)

791.04 EFFECTIVE PERIOD.

The annual tax provided under Section 791.03 shall be levied, collected and paid with respect to the income, salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned and/or received on and after January 1, 1967.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.05 METHOD OF DETERMINATION OF ALLOCATION OF TAX.

(a) Net profits from a business or profession conducted both within and without the boundaries of the City of Euclid shall be considered as having a taxable situs in the City of Euclid for the purpose of income taxation in the same proportion as the average ratio of:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in this paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession wherever their services are performed. Effective with tax year 2004, wages, salaries and other compensation

shall be included to the extent that they represent qualifying wages.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing allocation formula does not produce an equitable result, another basis (including books and records) may, under uniform regulations, be substituted so as to produce such result.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.06 SALES MADE IN CITY.

As used in Section 791.05(a)(3), "sales made in the City" means:

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

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

(c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.07 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 791.05(a)(1) through (3), or such of the percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 791.05. A factor is applicable even though it may be allocable entirely in or outside the City.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.08 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities only if and to the extent that the rental ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitute a business activity of the taxpayer in whole or in part. Net profits not constituting a business activity remain taxable, and shall be taxed using the books and records method.

(b) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax, provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred twenty-five dollars (\$125.00) per month, and provided, further, that in the case of farm property, the owner shall be considered engaged in a business activity when he or she shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds such one hundred twenty-five dollars (\$125.00) per month, and provided, further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds such one hundred twenty-five dollars (\$125.00) per month.

(c) On or before October 16, 1993, all property owners of rental or leased residential property shall file with the Administrator of the City of Euclid, Ohio a report showing the names and addresses of each such tenant who occupies residential premises within the corporation limits of the City as of October 1, 1993.

(d) Beginning October 1, 1993, and thereafter, within 30 days after a new tenant occupies residential rental property of any kind within the City, all property owners of a rental or leased residential property shall file with the Administrator a report showing the names and addresses of each tenant who occupies a residential premises within the corporation limits of the City.

(e) Beginning October 1, 1993, and thereafter, within 30 days after a tenant vacates a rental or leased residential property located within the City, all property owners of rental or leased residential property shall file with the Administrator a report showing the date of vacating from the rental or leased residential property and identifying such vacating tenant.

(f) For the purposes of this section, "tenant" shall mean:

(1) If there is a written lease or rental agreement, the person or persons who sign the written lease or rental agreement with the owner.

(2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.

(g) In the event of violations of this section, the following penalties shall be imposed: A fine of not more than twenty-five dollars (\$25.00) for a first offense; a fine of not more than fifty dollars (\$50.00) for a second offense; a fine of not more than one hundred dollars (\$100.00) for each offense, for a third and all subsequent offenses.

(Ord. 262-1966. Passed 12-23-66; Ord. 180-2004. Passed 10-18-04; Ord. 207-2009. Passed 12-7-09.)

791.09 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 2004, allocable to the City, may be applied against the portion of the profit of succeeding tax years allocable to the City until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(c) The portion of a net operating loss sustained in any taxable year allocable to the city may not be offset against salaries, wages, commissions and other non-business compensation.

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

(Ord. 175-2004. Passed 10-18-04; Ord. 153-2006. Passed 9-18-06; Ord. 207-2009. Passed 12-7-09.)

791.10 SOURCES OF INCOME NOT TAXED.

The tax provided for herein shall not be levied on the following:

(a) Military pay or allowance of active members of the Armed Forces of the United States and of members of their reserve components, including the National Guard;

(b) Poor relief, unemployment insurance benefits or similar payments, including disability benefits received from local, State or Federal governments, or charitable, religious or educational organizations;

(c) Proceeds of insurance paid by reason of the death of the insured and proceeds from pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;

(d) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;

(e) Alimony received;

(f) Personal earnings of any natural person under eighteen years of age;

(g) Compensation paid to a precinct election official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually.

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

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

(j) Interest, dividends and other revenue from intangible property;

(k) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the City is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business);

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

(m) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce;

(n) Income, salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General assembly limiting the power of the City to impose net income taxes.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.11 WHEN RETURN REQUIRED TO BE MADE.

(a) Unless an exemption certificate is filed for the tax year 2008 or subsequent tax years thereafter on a form provided by the administrator, each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter (Ordinance 262-1966, passed December 23, 1966), and on or before April 15 of each year thereafter through tax year 2007. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within one hundred five (105) days from the end of such fiscal year or period. Beginning with tax year 2008, the filing dates shall correspond to the federal filing dates if the federal filing dates are other than April 15th and/or one hundred five (105) days from the end of such fiscal year or period.

(b) Retirees having no taxable income for City of Euclid income tax purposes may file, with the administrator, a written request for exemption from these filing requirements, and shall be exempt if the request is granted by the administrator. The request shall be filed using the prescribed exemption certificate, which is available from the City of Euclid income tax office. Such exemption, if granted, shall be in effect until such time as the retiree receives income taxable for City of Euclid income tax purposes, at which time the retiree shall be required to comply with all applicable provisions of this chapter, including the filing requirements.

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

(d) Each taxpayer may offset business losses against business net profits from any business conducted in the city or in any municipality that does not levy an income tax on net profits therefrom. However, partnership and S corporation distributive share losses are not deductible from an individual's rental or sole proprietorship income.

(e) A loss from the operation of a business may not be used to offset the income on a taxpayer's W-2 form.

(f) Unreimbursed employee business expenses deductible on federal form 2106 are deductible expenses for city income tax purposes. However, the deductions shall be subject to federal guidelines, and to review and audit by the city's income tax office. Expenses must be allocated proportionate to the related income.

(Ord. 101-1988. Passed 6-16-88; Ord. 178-2004. Passed 10-18-04; Ord. 15-2008. Passed 1-22-08; Ord. 207-2009. Passed 12-7-09.)

791.12 FORM AND CONTENT OF RETURN.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator, or on a generic form as defined in this chapter, setting forth:

(a) The aggregate amounts of income, salaries, wages, commissions, lottery winnings, gambling winnings, other compensation, and other income earned or received and gross income from a business, profession or other enterprise or any activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;

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

(c) Such other pertinent statements, information returns or other information as the Administrator may require. Pertinent information may include, but not be limited to, copies of all W-2 forms, 1099 miscellaneous income forms, page one of form 1040, pages one and two of form 1120, 1120s (including (K-1), 2106, 1065, schedule C (including cost of goods manufactured and/or sold), schedule E, schedule F and any other federal schedules, if applicable.

(Ord. 262-1966. Passed 12-23-66; Ord. 228-2003. Passed 12-1-03; Ord. 207-2009. Passed 12-7-09.)

791.13 EXTENSION OF TIME FOR FILING RETURNS.

(a) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not more than six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. For taxable year 2004 the extended due date shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. For taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended, if the annual return is filed through the Ohio Business Gateway. If not filed through the Ohio Business Gateway the extended due date remains the last day of the month following the month to which the due date of the federal income tax return has been extended. The Administrator may deny the extension if the taxpayer's income tax account with the city is delinquent in any way.

(b) The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.14 CONSOLIDATED RETURNS.

(a) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the city. However, once the affiliated group has elected to file a consolidated return or a separate return with the city, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Administrator.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.15 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 791.31 through 791.35. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting (i.e., cash or accrual) or apportionment of net profits after the due date for filing the original return.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) 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 791.17, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 791.21, or whether an income tax has been paid to another municipality or joint economic development district, credit for the amount so paid, in accordance with Sections 791.34 and 791.35, 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.

(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his or her election, indicated on the return, such overpayment, or a part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. However, beginning with tax year 2009, no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct at the time of the payment of salary, wages, commission or other compensation, the tax of two and eighty-five one hundredths percent (2.85%) per annum of the income, salaries, wages, commissions or other compensation due by the employer to an employee, or the tips or gratuities reported to the employer by each employee for social security or Federal income tax purposes, and shall, on or before the twentieth day of the month following the close of each calendar quarter, make a return and pay the Administrator the amount of taxes so deducted, subject to the provisions of subsections (c), (d) and (e) hereof. Such returns shall be on a form or forms prescribed by or acceptable to the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the taxes have in fact been withheld.

(Ord. 150-1983. Passed 8-1-83; Ord. 200-1994. Passed 8-22-94; Approved by Voters 11-8-94.)

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

(c) If the taxes withheld by an employer for the city during the previous tax year averaged one hundred dollars (\$100.00) or more per month, the employer shall remit payment of the withheld taxes to Euclid on or before the twentieth day of the month following the month for which the taxes were withheld.

(d) Authorization for any employer to remit taxes quarterly under this section may be withdrawn by the Administrator, should the Administrator determine that the employer is not in compliance with the withholding requirements and/or other requirements of this chapter. The employer shall then be required to submit monthly deposits.

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

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

(g) On or before February 28th of each year, each employer shall file a withholding return setting forth the name, address, and social security number of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his or her 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.

(h) On or before February 28th of each year all individuals, businesses, employers, brokers or others who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the City income tax department with copies of all 1099 miscellaneous income forms and/or a list of names, addresses, social security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

(i) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him or her exclusively in or about such person's residence even though such residence is in the City but such employee shall be subject to all of the requirements of this chapter.

(Ord. 126-1969. Passed 6-2-69; Ord. 207-2009. Passed 12-7-09.)

791.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Every person who anticipates any taxable income which is not subject in whole or in part to Section 791.17, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 791.03, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any, provided, however, that if a person's income is wholly from wages from which the tax will be withheld in full and remitted to the City in accordance with Section 791.17, such person need not file a declaration. However, if the amount of the estimated tax not withheld or not fully withheld is less than forty dollars (\$40.00), such person need not file a declaration.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.19 FILING OF DECLARATION.

(a) The declaration required by Section 791.18 shall be filed on or before April 15 of each year during the effective period set forth in Section 791.04 or within 105 days in the case of fiscal year filers.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within 105 days after the beginning of each fiscal year or period.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.20 FORM OF DECLARATION.

(a) The declaration required by Section 791.18 shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, that credit shall be taken for the City of Euclid tax to be withheld from any portion of such income. In accordance with the provisions of Sections 791.34 and 791.35, credit may be taken for the tax to be paid or to be withheld and remitted to another taxing municipality or joint economic development district.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.21 PAYMENT TO ACCOMPANY DECLARATION.

The declaration of estimated tax to be paid to the City shall be accompanied by a payment according to the following schedule:

(a) If the taxpayer is an individual, twenty-two and one-half per cent (22.5%) of the taxpayer's estimated tax liability for the current year shall be remitted not later than the fifteenth day of April, or not later than the federal filing date if it is other than April 15th; forty-five percent not later than the thirty-first day of July; sixty-seven and one-half per cent not later than the thirty-first day of October; and ninety per cent of the taxpayer's estimated tax liability for the year shall be remitted not later than the thirty-first day of January of the subsequent year. However, in case an amended declaration has been filed, the unpaid balance shown to be due thereon shall be paid in equal installments on or before the remaining payment dates.

(b) If the taxpayer is a corporation, association, or other business entity, twenty-two and one-half per cent (22.5%) of the taxpayer's estimated tax liability for the current year shall be remitted not later than the fifteenth day of the fourth month of the taxable year, and an additional twenty-two and one-half per cent (22.5%) shall be paid not later than the sixth, ninth, and twelfth months of the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown to be due thereon shall be paid in equal installments on or before the remaining payment dates.

(Ord. 260-1972. Passed 11-20-72; Ord. 179-2004. Passed 10-18-04; Ord. 207-2009. Passed 12-7-09.)

791.22 ESTIMATED PAYMENTS EXEMPT FROM PENALTIES AND INTEREST.

(a) Penalties and interest shall not be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the City on the first day of January in the year in which they became subject to estimated payments.

(b) Penalties and interest shall not be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year.

(c) Penalties and interest shall not be assessed on estimated payments if the taxpayer has remitted, on or before the following dates for the year for which the estimated tax payments are being made, an amount equal to at least ninety percent of the final tax liability:

(1) In the case of individuals, the date shall be January 31st of the year in which the annual return is due.

(2) In the case of businesses which are calendar year filers, the date shall be December 15th of the tax year for which the estimated payments are being made.

(3) In the case of fiscal year filers, the fifteenth day of the twelfth month of the tax year for which the estimated payments are being made.

(Ord. 207-2009. Passed 12-7-09)

791.23 (RESERVED FOR FUTURE USE).

791.24 INTEREST ON UNPAID TAX.

All taxes imposed, including estimated taxes, 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 and one-half percent per month or fraction of a month thereof.

(Ord. 176-1980. Passed 6-16-80; Ord. 207-2009. Passed 12-7-09.)

791.25 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 791.24, penalties based on the unpaid tax are hereby imposed as follows:

(a) For failure to pay taxes due, other than taxes withheld: one and one-half percent per month or fraction of a month thereof;

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

(c) The minimum penalty for failure to file an annual return or exemption certificate, if required, shall be twenty-five dollars (\$25.00).

(Ord. 56-1981. Passed 3-16-81; Ord. 15-2008. Passed 1-22-08; Ord. 207-2009. Passed 12-7-09.)

791.26 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. In the absence of fraud, neither a penalty nor interest shall be assessed on any additional tax assessment against a taxpayer by the Administrator resulting from a Federal audit, provided that an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.27 ABATEMENT OF INTEREST AND PENALTY.

Upon recommendation of the Administrator, the Board of Review may abate a penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of a penalty or interest, or both, the Board may nevertheless abate a penalty or interest, or both, for good cause shown.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.28 VIOLATIONS.

A person violating any of the following shall be subject to the penalties provided in Section 791.99:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator, or any duly authorized agent or employee, to examine his or her books, records, papers and Federal and State income tax returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator and to produce his or her books, records, papers and Federal and State income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to an employer false information as to his or her true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and the date thereof;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.29 LIMITATION ON PROSECUTION.

All prosecutions under this chapter for any violation of Section 791.28 must be commenced within the time specified in Ohio R.C. 718.12.

(Ord. 176-2004. Passed 10-18-04; Ord. 207-2009. Passed 12-7-09.)

791.30 FAILURE TO PROCURE FORMS NOT EXCUSE.

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

791.31 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. All additional assessments shall be made and all legal 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. However, in the case of fraud, omission of twenty-five percent or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover municipal income taxes and penalties and interest thereon shall be brought within six years after the tax was due or the return was filed, whichever is later.

(b) In those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.

(c) All delinquent tax accounts outsourced by the City to a law firm or collection agency shall be assessed a collection fee on the entire balance due equal to the contingency collection percentage charged by each law firm or collection agency as set forth in their collection contract with the City. The entire balance due shall be the principal balance due plus interest, penalties, late fees, and/or other permissible fines, penalties and charges and collection fees. The collection fee shall be assessed against all payments made by the taxpayer whether or not the balance due is paid in full with one payment, or over time with more than one payment. The assessment of the collection fee shall be made by the law firm or collection agency after the delinquent account has been outsourced for collection. Additionally, court costs shall be added to the balance due as they are incurred but shall not be assessed a collection fee.

(d) Payments on delinquent amounts shall be applied in the following manner:

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

791.32 REFUNDS OF TAXES ERRONEOUSLY PAID.

(a) Taxes erroneously paid shall not be refunded unless a claim for a refund is made within the time specified in Ohio R.C. 718.12. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

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

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

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

(b) Income tax that has been deposited with the City of Euclid, but should have been deposited with another municipality, is allowable by the City of Euclid as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the City of Euclid, but was deposited with another municipality, shall be subject to recovery by the City of Euclid. The City of Euclid will allow a non-refundable credit for any amount owed the City of Euclid that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the City of Euclid tax rate. If the City of Euclid tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the City of Euclid.

(Ord. 176-2004. Passed 10-18-04; Ord. 207-2009. Passed 12-7-09.)

791.33 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.34 EUCLID RESIDENT SUBJECT TO INCOME TAX IN OTHER MUNICIPALITY.

(a) When the taxable income of a resident of the City of Euclid is subject to a municipal income tax in another municipality or joint economic development district on the same income taxable under this chapter, a 100 percent credit shall be allowed against Euclid income tax of the amount of net tax for which he or she is liable under the ordinance of the other municipality or joint economic development district.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may provide by regulation. In the event such Euclid resident fails, neglects or refuses to file the returns or declarations on the forms prescribed by the Administrator, he or she shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file such returns.

(Ord. 293-1971. Passed 12-6-71; Ord. 207-2009. Passed 12-7-09.)

791.35 CLAIM FOR CREDIT.

Any claim for credit for income taxes paid to another municipality or joint economic development district on the same income taxable hereunder, or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator within three years after the tax was due or the return was filed, whichever is later. Failure to file such claim for credit or refund, or assignment thereof, within the time prescribed herein, shall render such credit claim for refund or assignment null and void.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.36 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for Municipal purposes, except as provided in subsection (c) hereof.

(Ord. 262-1966. Passed 12-23-66.)

(c) Of the additional .85 percent income tax levied by Ordinance 200-1994, passed August 22, 1994, .38 percent shall be used to supplement both the General Fund, for such basic expenses as safety services and general maintenance, and the Permanent Improvement Fund, for expenses such as sewers, streets and curbs, as determined by ordinance, and .47 percent shall be used for school district current expenses.

(Ord. 200-1994. Passed 8-22-94; Approved by Voters 11-8-94; Ord. 207-2009. Passed 12-7-09.)

791.37 DUTY TO RECEIVE TAX IMPOSED.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.38 DUTY TO ENFORCE COLLECTION.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.39 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

(a) 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. Taxpayers are required to comply with the requirements of this chapter and any rules and regulations promulgated thereto.

(b) Administrative Opinions: The Administrator shall have the power to issue opinions interpreting this chapter and/or the Administrator's regulations. An administrative opinion shall carry the full force and effect of a regulation under this chapter until the next meeting of the Board of Review, when the Board shall either adopt the opinion or reject the opinion.

(Ord. 262-1966. Passed 12-23-66; Ord. 228-2003. Passed 12-1-03; Ord. 207-2009. Passed 12-7-09.)

791.40 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

(a) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Administrator that due to certain hardship conditions he or she is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him or her under this chapter. A thirty dollar (\$30.00) fee shall be assessed to set up an initial agreement, reinstate a defaulted agreement, modify or restructure an existing agreement, to include additional amounts owed.

(b) 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 791.28 and 791.31 of this chapter shall apply.

(Ord. 262-1966. Passed 12-23-66; Ord. 27-2009. Passed 2-17-09; Ord. 207-2009. Passed 12-7-09.)

791.41 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any. If the taxpayer fails to respond to the assessment within 30 days the assessment shall become final and the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.42 AUTHORITY TO MAKE INVESTIGATIONS.

The administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal and State income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to, the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish within ten calendar days following a written request by the Administrator, or his or her duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.43 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.44 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal and State income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax, or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby, shall be deemed a violation of such sections, punishable as provided in Section 791.99.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.45 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official tax purposes and except in accordance with proper judicial order, and no person shall divulge such information. However, it shall be permissible to furnish tax information to the Internal Revenue Service, the State Tax Commissioner and/or other municipalities to which the taxpayer is required to furnish municipal tax information.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.46 TAXPAYER REQUIRED TO RETAIN RECORDS.

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

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.47 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Administrator may and he or she is hereby authorized to enter into an agreement, subject to agreement of Council, on behalf of the City, with any other municipal corporation to permit such other municipal corporation to act as agent for the City for the purpose of administering the income tax laws of the City and of providing a central collection facility for the collection of the income tax on behalf of the City.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.48 ADMINISTRATOR'S AUTHORITY TO CONTRACT FOR SERVICE.

In the event the Administrator, on behalf of the City, enters into an agreement with any other municipal corporation to act as agent of the City for the purpose of administering the income tax laws of the City and of providing a central facility for the collection of the income tax, as provided in Section 791.47, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.49 BOARD OF REVIEW ESTABLISHED.

(a) A Board of Review, consisting of three members with business, legal or accounting experience and current residents of the City, with one member appointed by the Mayor, one member appointed by the Council, and one member agreed to by both the Mayor and Council is hereby created. Except for the initial terms, each member so appointed shall serve for a period of three years. The member initially appointed by the Mayor shall serve through December 31, 2006. The member initially appointed by City Council shall serve through December 31, 2007. The final initial appointment shall serve through December 31, 2008. When a vacancy occurs, a member shall be appointed to that vacancy under the same appointment rule by which the previous member was appointed.

(b) No person shall qualify to be appointed to the Board of Review if, within the preceding 12 months, he or she has been employed by the City, an elected or appointed official of the City or been under contract for goods or services supplied to the City.

(c) The Board shall select, each year for a one-year term, one of its members to serve as chairperson and one to serve as secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 791.45, with reference to the confidential character of information required to be disclosed by this chapter, shall apply to such matters as may be heard before the Board on appeal.

(Ord. 262-1966. Passed 12-23-66; Ord. 93-2006. Passed 5-15-06; Ord. 207-2009. Passed 12-7-09.)

791.50 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become affective. 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 alternative methods of allocation.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.51 RIGHT OF APPEAL.

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

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

(Ord. 262-1966. Passed 12-23-66; Ord. 93-2006. Passed 5-15-06; Ord. 207-2009. Passed 12-7-09.)

791.52 DECLARATION OF LEGISLATIVE INTENT.

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 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. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.53 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period 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 791.28 through 791.33.

(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 791.11 and 791.17 as though the same were continuing.

(Ord. 262-1966. Passed 12-23-66; Ord. 207-2009. Passed 12-7-09.)

791.54 FAILURE TO FILE RETURNS OR PAY TAX; LIABILITY OF RESPONSIBLE OFFICER OR EMPLOYEE

The officer or employee having control or supervision of the filing of any return and/or declaration and/or making payments required by this chapter, and/or withholding the tax required by this chapter, shall be personally liable for failure to file any return, declaration, or tax payments due under the provisions of this chapter. Any officer of a corporation or association who is responsible for execution of the corporation's fiscal responsibilities shall be personally liable for failure to file any return, declaration, tax payment or employer withholding payments due under the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge the liability of a responsible officer or employee for a failure of the corporation to comply with the requirements of this chapter.

(Ord. 228-2003. Passed 12-1-03; Ord. 207-2009. Passed 12-7-09.)

791.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter shall be guilty of a first degree misdemeanor and fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both, for each offense.

(b) In the case of violations of Section 791.45, each disclosure shall constitute a separate offense. Further, in addition to the penalty provided in subsection (a) hereof, any city employee that violates Section 791.45 shall be guilty of an offense punishable by immediate dismissal.

(Ord. 262-1966. Passed 12-23-66; Ord. 177-2004. Passed 10-18-04; Ord. 207-2009. Passed 12-7-09.)