

ORDINANCE NO. **14-089**

AN ORDINANCE TO AMEND SECTIONS 191.01 AND 191.07 OF THE CODIFIED ORDINANCES OF THE CITY OF SANDUSKY, OHIO, IN ORDER TO PROVIDE FOR AN ADDITIONAL ONE-QUARTER PERCENT INCOME TAX, BY INCREASING THE INCOME TAX RATE FROM ONE PERCENT TO ONE AND ONE-QUARTER PERCENT BEGINNING JANUARY 1, 2015, SPECIFYING THAT THE NET PROCEEDS OF SUCH ADDITIONAL INCOME TAX SHALL BE USED TO PAY COSTS RELATED TO MAINTAINING AND IMPROVING STREETS, SIDEWALKS AND PARKS, PROVIDING PUBLIC SAFETY SERVICES AND ELIMINATING BLIGHT AND PUBLIC NUISANCES, AND DECLARING AN EMERGENCY.

WHEREAS, the City Manager has advised this City Commission that additional revenues are needed by the City and has recommended that the income tax rate of the City be increased; and

WHEREAS, an emergency exists in that, for the immediate preservation of the public peace, property, health and safety, it is necessary that this ordinance be effective immediately so that the City may begin to receive those additional revenues without delay and thereby preserve and maintain City services and functions and protect the credit of the City, and, by reason thereof, this ordinance shall take effect forthwith upon its passage, NOW THEREFORE

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, that:

Section 1. Effective January 1, 2015, Section 191.01 of the Codified Ordinances of the City of Sandusky, Ohio, is hereby amended to read as follows:

“191.01 PURPOSE.

There is hereby levied a tax at the rate of one percent (1%) on Taxable Income (as hereinafter defined), subject to the restrictions provided in Section 191.10 and elsewhere in this Chapter. The levy of such tax shall be used to provide funds for the purpose of general municipal operations, maintenance of equipment, purchase of new equipment, extension, enlargement and improvement of municipal services and facilities, and the capital improvements of the City.”

There is hereby levied a tax at the rate of one quarter percent (1/4%) on Taxable Income (as hereinafter defined), subject to the restrictions provided in Section 191.10 and elsewhere in this Chapter. The levy of such tax shall be used to pay costs related to maintaining and improving streets, sidewalks and parks, providing public safety services and eliminating blight and public nuisances.”

Section 2. Effective January 1, 2015, Section 191.07 of the Codified Ordinances of the City of Sandusky, Ohio is hereby amended to read as follows:

“191.07 ALLOCATION OF FUNDS.

The funds collected under the provisions of this Chapter shall be deposited in the following order:

For each Fiscal Year of the City, unless otherwise modified by ordinance, the first eighty-eight and three quarters percent (88.75 %) of the City Income Tax collected shall be appropriated and transferred to the General Fund, to be used for the purposes for which that Fund was created and consistent with Section 191.01.

For each Fiscal Year of the City, unless otherwise modified by ordinance, the next five percent (5.0 %) of the City Income Tax collected shall be appropriated and transferred to the Capital Improvement Fund, to be used for the purposes for which that Fund was created and consistent with Section 191.01.

For each Fiscal Year of the City, unless otherwise modified by ordinance, the next six and one quarter percent (6.25 %) of the City Income Tax collected shall be appropriated and transferred to the Debt Service Fund, to be used for the retirement of the debt of the City and consistent with Section 191.01.

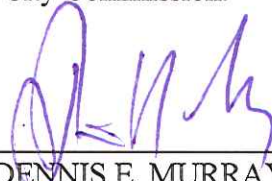
The costs and expenses incurred in the collection, administration and enforcement of the aforementioned funds shall be initially paid from the General

Fund and, thereafter, the General Fund shall be reimbursed from the respective funds for which the costs were incurred.”


Section 3. Effective January 1, 2015, Sections 191.01 and 191.07 of the Codified Ordinances of the City of Sandusky, Ohio, as they have heretofore existed are hereby repealed. Provided, however, that no provision of this ordinance, including the repeal of Sections 191.01 and 191.07 of the Codified Ordinances of the City of Sandusky, Ohio, as they heretofore existed shall in any way affect any rights or obligations of the City, any taxpayer, or any other person, official or entity with respect to the one percent municipal income tax heretofore authorized by Section 191.01 of the Codified Ordinances of the City of Sandusky, Ohio, as it has heretofore existed and shall remain in effect until January 1, 2015.

Section 4. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this ordinance were taken in an opening meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with law.

Section 5. For the reasons set forth in the last preamble hereto, this ordinance is hereby declared to be an emergency measure and shall take effect immediately upon its passage and due authentication by the President and the Clerk of the City Commission.

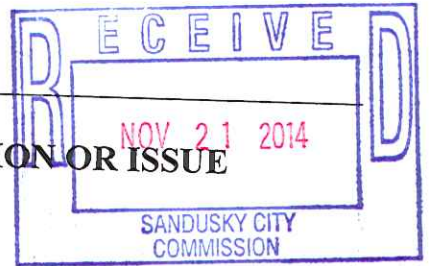


DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: 

KELLY KRESSER
CLERK OF THE CITY COMMISSION

Adopted: DECEMBER 8, 2014



CERTIFICATE OF RESULT OF ELECTION ON QUESTION OR ISSUE
Revised Code, Section 3501.11

State of Ohio
County of Erie }

The Board of Elections of Erie County hereby

certifies that at the election held in the City of Sandusky
(Name of Subdivision)

on the 4th day of November, 2014, the vote cast on the following issue was as follows:

Issue Shall the Ordinance (Ordinance No. 14-089) providing for one-quarter percent (1/4%) levy increase on income to pay costs related to maintaining and improving street, sidewalks and parks, providing public safety services and eliminating blight and public nuisances, resulting in a total municipal income tax rate of one and one-quarter percent (1-1/4%) beginning January 1, 2015, be passed?
(Tax levy, bond issue, miscellaneous question, etc.-describe fully)

Votes <u>Three thousand five hundred forty eight</u> (For, yes, etc.-as on ballot)	<u>3,548</u> (Number)
Votes <u>Two thousand five hundred fifty three</u> (No, against, etc.-as on ballot)	<u>2,553</u> (Number)
Total vote cast on issue:	<u>6,101</u> (Number)

IN WITNESS WHEREOF, we have hereunto subscribed our names officially at Sandusky

Ohio, this 19th day November, 2014.

[Signature] Chair
[Signature]
[Signature]

Attest: [Signature]
Director

BOARD OF ELECTIONS

Erie County, Ohio

CHAPTER 191 Income Tax

- 191.01 Purpose.
- 191.02 Definitions.
- 191.03 Imposition of tax.
- 191.04 Reciprocity provisions - credit for tax paid to other municipalities.
- 191.05 [Reciprocity repealed 1-1-06, click here to view 2004 tax credit](#)
- 191.05 Administration; duties of the Administrator and the Finance Director.
- 191.06 Investigative powers of the Income Tax Administrator; penalty for divulging confidential information.
- 191.07 Allocation of funds.
- 191.08 Board of Review.
- 191.09 Applicability.
- 191.10 Exemptions.
- 191.11 Collection of unpaid taxes; civil litigation; criminal prosecution; statute of limitations; refunds of overpayments.
- 191.12 Interest and penalties.
- 191.13 Violations.
- 191.14 Contractor and subcontractor registration.
- 191.15 Annual return and payment of tax.
- 191.16 Declaration of estimated tax; payment.
- 191.17 Withholding by employer - collection at source.
- 191.18 Separability.
- 191.19 Collection of tax after termination of chapter.
- 191.99 Penalty.

CROSS REFERENCES

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

191.01 PURPOSE.

There is hereby levied a tax at the rate of one percent (1%) on Taxable Income (as hereinafter defined), subject to the restrictions provided in Section 191.10 and elsewhere in this Chapter. The levy of such tax shall be used to provide funds for the purpose of general municipal operations, maintenance of equipment, purchase of new equipment, extension, enlargement and improvement of municipal services and facilities, and the capital improvements of the City. (Ord. 05-100. Passed 6-13-05.)

191.02 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

(a) “Adjusted Federal Taxable Income” means a Corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from the required additions and deductions set forth in Ohio R.C. 718.01(A)(1)(a) - (f). A pass-through entity must compute “Adjusted Federal Taxable Income” as if the pass-through entity was a Corporation, with the adjustments set forth in Ohio R.C. 718.01(A)(1)(g). This definition does not apply to any taxpayer required to file a return under Ohio R.C. 5745.03 or to the net profits from a sole proprietorship. This definition is effective for Taxable Years beginning on or after January 1, 2004.

(b) “Administrator” means the individual designated by the provisions of this Chapter to administer and enforce the provisions of this Chapter, as well as the administrator of a municipal income tax agency of which the City is a member, including, but not limited to, the Regional Income Tax Agency or the Central Collection Agency.

(c) “Assignment” means the assignment made by a resident of the City of a claim for a refund due from another Taxing Municipality granting credit to nonresidents thereof.

(d) “Association” means an unincorporated enterprise owned by two or more persons or in which two or more persons have a beneficial interest, other than a Pass-Through Entity.

(e) “Board” means the Board of Review established by and constituted as provided in Section 109.08.

(f) “Business” means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit by any Person.

(g) “Chapter” means Chapter 191 of the Codified Ordinances of the City.

(h) “City” means the City of Sandusky, Ohio.

(i) “City Income Tax” means the tax imposed by Section 191.01 of this Chapter.

(j) “Code” means the Internal Revenue Code of 1986, as amended from time to time. Reference to a section of the Code includes all rulings, regulations,

notices, announcements, decisions, orders and other pronouncements that are issued by the United States Department of the Treasury, the Internal Revenue Service, or any Court of competent jurisdiction that is lawful and pertinent to the interpretation, application or effectiveness of such Section of the Code.

(k) “Compensation” means, for Taxable Years beginning on or after January 1, 2004, Qualifying Wages. For Taxable Years beginning before January 1, 2004, Compensation means wages, salary, commissions and/or other types of compensation paid or provided by an Employer to an individual for services rendered, whether paid in cash or in kind, on an hourly, daily, weekly, monthly, annual, or other basis, to the extent that such amounts are considered to be “wages” under Code Section 3121(a). The determination of what shall be considered “wages” under Code Section 3121(a) shall be made without regard to the limitation on wages contained in Code Section 3121(a)(1), without regard to any provisions in Code Section 3121(b) or other Code provisions that may exclude such amounts from federal employment tax based upon the nature of the services being performed, the identity of the Employer or other reasons, and with regard to the provisions of Code Section 3121(v). In addition to the foregoing, Compensation shall include all of the following types of income in the service of an Employer, even if it is not considered to be wages under Code Section 3121(a):

(1) All elective deferrals (as defined in Code Section 402(g)(3)) and all amounts contributed or deferred by the Employer at the election of the employee and which are not currently includible in gross income by reason of Code Section 125 (cafeteria plans), Code Section 129 (dependent care assistance plans), Code Section 132(f)(4) (tax-free parking) or Code Section 457 (deferred compensation of tax-exempt organizations), to the extent that such amount(s), but for the election or deferral, would be included in Compensation;

(2) Wage continuation payments made as a result of sickness or temporary disability and whether paid by the recipient’s Employer or by a third party;

(3) Group term insurance premiums paid on an Employee’s behalf to the extent included or includible in the Employee’s wages under Code Section 3401(a) or 3402;

(4) Compensation attributable to stock options or employee stock purchase plans to the extent that it is considered ordinary income for Federal Income Tax purposes; and

(5) Supplemental unemployment benefits (SUB Pay).

(l) “Contractor” means a Person who, in connection with the construction of improvements to real or personal property, contracts to supply materials or perform work for a stipulated sum.

(m) “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. The term “Corporation” also includes an entity treated as a corporation for Federal Income Tax purposes, including, but

not limited to, publicly traded partnerships, regulated investment companies, real estate investment trusts, and certain Limited Liability Companies. The term “Corporation” does not include either an S Corporation or a Limited Liability Company that is treated as a partnership for Federal Income Tax purposes.

(n) “Employee” means one who works for Compensation.

(o) “Employer” means a Person, governmental body, unit, agency or any other entity, whether or not organized for profit, who or that employs one or more Persons.

(p) “Federal Income Tax” means the tax imposed by Sections 1 and 11 of the Code.

(q) “Fiduciary” means a guardian, trustee, executor, administrator, or any other person acting in any fiduciary capacity for any individual, trust, estate, or business.

(r) “Fiscal year” means an accounting period of 12 months or less ending on any day other than December 31. Only fiscal years accepted for Federal Income Tax purposes may be used for City Income Tax purposes.

(s) “Generic Form” means an electronic or paper form designed for reporting estimated City Income Taxes, and/or annual City Income Tax liability, and/or request for refunds, that contains all the information required on the City’s regular tax return, estimated payment forms, and request for refund forms, and that is in a similar format that will allow processing of the generic form without altering the City’s procedures for processing forms.

(t) “Gross receipts” means the total income from any source whatsoever.

(u) “Limited Liability Company” means a limited liability company formed under Ohio R.C. Chapter 1705 or under the laws of any other state.

(v) “Net Profits” means for Taxable Years, beginning on or after January 1, 2004, Adjusted Federal Taxable Income in the case of a taxpayer other than an individual and, in the case of an individual, the amounts required to be reported by the individual on IRS Schedule C, Schedule E or Schedule F. For Taxable Years beginning before January 1, 2004 Net Profits means a net gain from the operation of a Business after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the Taxpayer for Federal Income Tax purposes, or a system approved by the Administrator, without deduction of taxes imposed by this Chapter and federal, state and other taxes on or based on income and, in the case of a Pass-Through Entity, without deduction of salaries or other amounts paid to Owners, and otherwise adjusted to the requirements of this Chapter.

(w) “Nonresident” means an individual domiciled outside the City.

(x) “Nonresident Pass-Through Entity” means a Pass-Through Entity not having an office or Place of Business within the City.

(y) “Ohio R.C.” means the Ohio Revised Code; unless otherwise identified, the number following refers to a Section of the Ohio Revised Code.

(z) “Owner” means an individual, partner, shareholder, member or any other Person having an ownership interest in a Pass-Through Entity or an Association.

(aa) “Pass-Through Entity” means a partnership, S Corporation, Limited Liability Company that is treated as a partnership for Federal Income Tax purposes, or any other class of entity the income or profits from which are given pass-through treatment under the Code.

(bb) “Person” means every natural person, Pass-Through Entity, Fiduciary, Association or Corporation. Whenever used in any clause prescribing and imposing a penalty, the term “Person” as applied to a Pass-Through Entity or Association shall mean the Responsible Person within the meaning of Section 191.17(h).

(cc) “Place of Business” means any bona fide office, other than a mere statutory office, factory, warehouse or other space that is occupied and used by the Taxpayer in carrying on any Business individually or through one or more agents or Employees regularly in attendance.

(dd) “Qualifying Wages” means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from the required additions and deductions set forth in Ohio R.C. 718.03(A)(2). Qualifying wages represent an individual’s income from employment, including non-qualified deferred compensation and stock options, from which City Income Tax shall be deducted by the employer, and any wages not considered a part of Qualifying Wages shall not be taxed by the City. This definition is effective for Taxable Years beginning on and after January 1, 2004.

(ee) “Reciprocity Credit” means the credit granted by a Taxing Municipality to its residents for income taxes paid to another Taxing Municipality.

(ff) “Rental Income” means income received by a Taxpayer from the rental of real estate, which shall be included in the computation of Net Profits from a Business only if and to the extent that the rental, ownership, management or operation 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, constitutes a Business of the Taxpayer, in whole or in part. Where the gross monthly rental of any and all real properties owned by a Taxpayer, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, the ownership, management or operation of such properties is a Business of such Taxpayer, and the net income of such rental property shall be subject to the tax imposed by this Chapter, provided that, in the case of commercial property, the Taxpayer shall be considered engaged in a Business 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 two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the Taxpayer shall be considered engaged in a Business when that Taxpayer 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 two hundred fifty dollars (\$250.00) per month; and provided further that a licensed rooming house shall be considered a Business, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

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

(hh) "Resident Pass-Through Entity" means a Pass-Through Entity having an office or Place of Business in the City.

(ii) "S Corporation" means a Corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Code for its taxable year.

(jj) "Sub-contractor" means a Person who assumes by secondary contract some of the obligations of an original Contractor.

(kk) "State" means the State of Ohio.

(ll) "State Income Tax" means the tax imposed by Ohio R.C. Chapters 5733 and 5747.

(mm) "Taxing Municipality" means any Ohio municipal corporation levying a municipal income tax on Compensation earned by individuals and on the Net Profits earned from the operation of a Business.

(nn) "Taxable Income" means the gross amount of Compensation paid by an Employer to an Employee before any deductions, the Net Profits from the operation of a Business, and any other item of income specified in Section 191.03, all subject to the exceptions set forth in Section 191.10 and as adjusted in accordance with the provisions of this Chapter.

(oo) "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 calendar year or Fiscal Year, the period for which such return is required to be made.

(pp) "Taxpayer" means a Person, whether an individual, Pass-Through Entity, or any Corporation or other entity, required hereunder to file a return or pay tax pursuant to this chapter. "Taxpayer" does not include any person that is a disregarded entity, grantor trust or a qualifying Subchapter S subsidiary for federal income tax purposes, but "Taxpayer" includes any other person who owns the disregarded entity, grantor trust or qualifying Subchapter S subsidiary.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 05-100. Passed 6-13-05.)

191.03 IMPOSITION OF TAX.

(a) Tax to be Imposed on Certain Money. Subject to the provisions of Section 191.19, an annual tax for the purposes specified in Section 191.01 shall be imposed at the rate specified therein upon the following:

(1) On all Compensation and on Net Profits from the operation of a Business earned during the effective period of this Chapter by a Resident.

(2) On all Compensation and on Net Profits from the operation of a Business earned during the effective period of this Chapter by a Nonresident for work done or services performed or rendered or the conduct of a Business in the City, subject to the limitations provided in Ohio R.C. 718.011.

(3) On the portion attributable to the City of the Net Profits earned during the effective period of this Chapter of a Resident Pass-Through Entity, derived from sales made, work done, services performed or rendered and Business conducted in the City.

(4) On the portion of the distributive share of the Net Profits earned during the effective period of this Chapter of a Resident who is an Owner of a Resident Pass-Through Entity not attributable to the City and not levied against such Resident Pass-Through Entity by the City, provided, however, that the liability of an individual Owner taxable hereunder on income attributable to another Taxing Municipality shall be subject to the relief and reciprocity provisions of Section 191.04.

(5) On the portion attributable to the City of the Net Profits earned during the effective period of this Chapter of a Nonresident Pass-Through Entity, derived from sales made, work done or services performed or rendered and Business conducted in the City, whether or not such Nonresident Pass-Through Entity has an office or Place of Business in the City.

(6) On the portion of the distributive share of the Net Profits earned during the effective period of this Chapter of a Resident who is an Owner of a Nonresident Pass-Through Entity engaged in Business not attributable to the City and not levied against such Nonresident Pass-Through Entity by the City, provided, however, that the liability of an individual Owner taxable hereunder on income attributable to another Taxing Municipality shall be subject to the relief and reciprocity provisions of Section 191.04.

(7) On the portion attributable to the City of the Net Profits earned during the effective period of this Chapter of a Corporation, including for Taxable Years beginning on or after January 1, 2003, an “electric company” and a “combined company,” as defined in Ohio R.C. 5727.01, derived from sales made, work done, services performed or rendered and Business conducted in the City, whether or not such Corporation, electric company or combined company has an office or Place of Business in the City. The City Income Tax imposed on the Net Profits of an electric company or a combined company shall be subject to and in accord with Ohio R.C. Chapter 5745.

(8) All income derived from gaming, wagering, lotteries, or schemes of chance:
A. By Residents anywhere, but only to the extent includable on the Taxpayer’s Federal Income Tax return, and

B. By Nonresidents only to the extent it is won or received from City sources and would be includable on the Taxpayer’s Federal Income Tax return if the Taxpayer’s income and losses derived from gaming, wagering, lotteries, or schemes of chance, was based solely on City sources.

- (9) On covenants not to compete and on cancellation of indebtedness to the extent includible on the Taxpayer's Federal Income Tax return.
- (10) Guardian, executor, conservator, trustee, or administrator fees.

(b) **Tax on Business Conducted Both In and Without the City.** The portion of the Net Profits attributable to the City of a Taxpayer conducting a Business both in and without the boundaries of the City 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) **Net Operating Losses.** The calculation of Taxable Income for any Taxable Year shall not include a deduction for any net operating loss incurred by the Taxpayer. Moreover, no portion of a net operating loss may offset the Taxpayer's Taxable Income in any Taxable Year prior or subsequent to the Taxable Year in which the Taxpayer incurred the net operating loss.

(d) **Consolidated Returns.**

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator. On and after January 1, 2003, the Administrator shall accept for filing a consolidated return from an affiliated group of Corporations subject to the tax imposed by this Chapter if the affiliated group filed for the same Taxable Year a consolidated return for Federal Income Tax purposes pursuant to Section 1501 of the Code. Only Corporations subject to the tax imposed by this Chapter may be included in such consolidated return filed for the City. If an affiliated group of Corporations subject to the tax imposed by this Chapter properly files a consolidated return in accordance with this Section 191.03(d)(1) for any Taxable Year beginning on or after January 1, 2003, the affiliated group must file a consolidated return for each succeeding Taxable Year in which it files a consolidated return for Federal Income Tax purposes unless, on or before the due date (taking into account extensions of time properly granted) of the return for a Taxable Year, the affiliated group obtains the permission of the Administrator to cease filing a consolidated return for that Taxable Year.

(2) In the case of a Corporation that carried on transactions with its stockholders or with other Corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory, or activity within the City constituting only a portion of its total business, the Administrator shall require such additional information as the Administrator deems necessary to ascertain whether Net Profits are properly allocated to the City. If the Administrator finds the Net Profits are not properly allocated to the City by reason of transactions with stockholders or with other Corporations related by stock ownership, interlocking directorates or transactions with a division, branch, factory, office, laboratory, or activity, or by some other

method, the Administrator shall make an allocation of Net Profits to the City in such manner as the Administrator deems fair and reasonable in order to properly reflect the Net Profits of the Corporation allocable to the City.

(e) Expenses Not Deductible. No deduction shall be permitted for the following expenses:

- (1) Health insurance premiums paid by self-employed Taxpayers.
- (2) Self-employment tax paid by self-employed Taxpayers.
- (3) Contributions by Taxpayers to IRA or Keogh (H.R. 10) plans.

(Ord. 05-100. Passed 6-13-05.)

191.04 RECIPROCITY PROVISIONS - CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(a) Residents. Except as otherwise provided in this Section 191.04, when a Resident is subject to and has paid, or has acknowledged liability for, a municipal income tax in another Taxing Municipality on the same income taxable under this Chapter, such Resident shall not be allowed any credit against, or claim of refund for, City Income Tax, and the City will not acknowledge or allow any claim for refund of any portion of the City Income Tax so levied.

(b) Certain Pass-Through Entities. For Taxable Years beginning on or after January 1, 2003, a Resident who is an Owner of a Pass-Through Entity that does not conduct business in the City and that has paid, or has acknowledged liability for, an income tax in another Taxing Municipality may claim a credit equal to the lesser of the following amounts:

(1) The Resident Owner's proportionate share of the amount, if any, of income tax paid by the Pass-Through Entity to another Taxing Municipality in the State; or

(2) The Resident Owner's proportionate share of the amount of City Income Tax that would be imposed on the Pass-Through Entity if the Pass-Through Entity conducted Business in the City.

In no case shall the credit authorized by this subsection (b) exceed fifty percent (50%) of the City Income Tax assessed under this Chapter.

(c) Where applicable, the credits provided by Ohio R.C. 718.021 and 718.121 shall be available to Residents.

(d) Nonresidents. Except as provided in Ohio R.C. 718.021 and 718.121, when a Nonresident is subject to the tax imposed by this Chapter and is also subject to tax on the same income in the municipal corporation of his residence, he shall not be allowed any credit against or claim of refund for City Income Tax, nor will the City acknowledge or allow any claim for refund of any portion of the City Income Tax so levied.

(e) Claim for Credit. The credits provided for in this Section 191.04 will not be allowed unless the same are claimed in a timely return or form acceptable to, and filed with, the Administrator. In the event a Taxpayer fails, neglects or refuses to file such timely return or form, he shall not be entitled to such credit and shall be liable for the full amount of tax assessed by this Chapter, together with such interest and penalties, both civil and criminal, as prescribed in this Chapter. (Ord. 05-106. Passed 6-27-05.)

191.05 ADMINISTRATION; DUTIES OF THE ADMINISTRATOR AND THE FINANCE DIRECTOR.

(a) It shall be the duty of the Finance Director to receive the tax imposed by this Chapter in the manner prescribed herein from the Taxpayers; to keep an accurate record thereof; and to report all monies so received. The Administrator and all clerks and deputies handling City Income Tax monies shall be responsible directly to the Finance Director and shall give daily accounting to the Finance Director.

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

(c) The Administrator is charged with the enforcement of the provisions of this Chapter and to enforce the rules and regulations of the City Commission, relating to any matter or thing pertaining to the collection of City Income Taxes and the administration and enforcement of the provisions of this Chapter, including provisions for the examination and correction of City Income Tax returns and payments.

(d) In any case where a Taxpayer or Employer has failed to file a return or has filed a return that 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 the Taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such assessment shall be collected in accordance with the rules and regulations as set forth by this Chapter, the Administrator, and the Board.

(e) Subject to the consent of the Board or pursuant to regulations approved by the City Commission, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by this Chapter.

(f) A Division of Taxation is created within the Department of Finance of the City. This Division of Taxation shall have any deputies, clerks, and other Employees as may be needed from time to time determined by the City Commission and/or City Manager. The Employees of the Division of Taxation shall receive a salary as shall be determined by the existing collective bargaining agreement for union personnel and by the City Manager for non-union personnel. The Administrator shall recommend all appointments of personnel and purchase all equipment, supplies, and material for the Division of Taxation subject to the approval of the Finance Director in accordance with the established City purchasing policies and the City personnel rules and regulations. The Division of Taxation shall be charged with the administration and operation of this Chapter, under the direction of the Finance Director. The Finance Director shall prescribe the form and method of accounts and reports for said Department, as well as the forms for Taxpayers' returns and declarations, and shall be charged with the internal examination and audit of all the accounts, and shall exhibit accurate records showing the amount received from each Taxpayer and the date of the receipt. The Finance Director shall also make written report to the City Commission annually of all moneys collected hereunder during the preceding year. (Ord. 05-100. Passed 6-13-05.)

191.06 INVESTIGATIVE POWERS OF THE INCOME TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or any authorized Employee, is hereby authorized to examine the books, papers, records and Federal Income Tax returns of any Employer or of any Taxpayer or Person subject to, or whom the Administrator believes is subject to, the provisions of this Chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this Chapter. Every such Employer, supposed Employer, Taxpayer or supposed Taxpayer, or Person 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 that 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 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 by any Employer or Person subject or presumed to be subject to the City Income Tax or by any officer, agent or Employee of a Person subject to the City Income Tax or required to withhold City Income Tax, to produce books, papers, records and Federal Income Tax returns, the refusal to submit to such examination 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 this Chapter, punishable as provided in Section 191.99.

(d) Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City for official City purposes subject to paragraph (f).

(e) 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 purposes, for disclosure and exchange of information with other federal, state or local taxing authorities for tax collection purposes, or except in accordance with proper judicial order. Any Person divulging such information in violation of this subsection shall be deemed guilty of a misdemeanor of the first degree and shall be subject to fine or penalty, or both. Each disclosure shall constitute a separate offense. In addition to the foregoing penalties, any Employee of the City who violates the provisions of this subsection relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(f) The Finance Director shall have the authority to enter into an agreement with another Ohio municipality or political subdivision for the sharing of tax information gathered under this Chapter, with such sharing being for official purposes only.

(g) The Administrator may require Nonresident Contractors to provide pertinent data, including but not limited to, an Employee's full name, last known address, Social Security number, gross amount of Compensation paid during the year, the amount of City Income Tax withheld on such Compensation, and a reconciliation on forms provided by the Administrator.

(h) The Administrator may require Nonresident Contractors to provide pertinent data relative to Sub-contractors, including but not limited to, each Sub-contractor's name, last known address, and Social Security number or Federal Taxpayer Identification number on forms provided by the Administrator.

(i) Every Taxpayer shall retain all records necessary to compute his City Income Tax liability for a period of five years from the date his return is filed, or the date the withholding taxes are paid to the City.
(Ord. 05-100. Passed 6-13-05.)

191.07 ALLOCATION OF FUNDS.

The funds collected under the provisions of this Chapter shall be deposited in the following order:

(a) For each Fiscal Year of the City, unless otherwise modified by ordinance, the first eighty-eight and three quarters percent (88.75%) of the City Income Tax collected shall be appropriated and transferred to the General Fund, to be used for the purposes for which that Fund was created.

(b) For each Fiscal Year of the City, unless otherwise modified by ordinance, the next five percent (5.0%) of the City Income Tax collected shall be appropriated and transferred to the Capital Improvement Fund, to be used for the purposes for which that Fund was created.

(c) For each Fiscal Year of the City, unless otherwise modified by ordinance, the next six and one quarter percent (6.25%) of the City Income Tax collected shall be appropriated and transferred to the Debt Service Fund, to be used for the retirement of the debt of the City.

(d) The costs and expenses incurred in the collection, administration and enforcement of the aforementioned funds shall be initially paid from the General Fund and, thereafter, the General Fund shall be reimbursed from the respective funds for which the costs were incurred.

(Ord. 05-100. Passed 6-13-05.)

191.08 BOARD OF REVIEW.

(a) A Board of Review, consisting of three electors of the City, is created hereby. No member shall be appointed to the Board who holds other public office or appointment. The members of the Board shall serve without pay. They shall be appointed by the City Commission, and shall serve at its pleasure.

(b) 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.

(c) All hearings of the Board shall be conducted privately and the provisions of Section 191.06, with reference to the confidential character of information required to be disclosed by this Chapter, shall apply to matters as may be heard before the Board on appeal.

(d) The Administrator, in issuing any ruling or decision for which authority has been conferred upon it by this Chapter, shall at the same time notify

the Taxpayer of both the Taxpayer's right to appeal such ruling or decision and the manner in which the Taxpayer may appeal such ruling or decision. Any Person dissatisfied with any ruling or decision of the Administrator, which is made under the authority conferred by this Chapter, may appeal therefrom to the Board within 30 days from the announcement of such ruling or decision by the Administrator, provided the taxpayer making the appeal has filed with the Administrator the required return or other documents concerning the obligation at issue, and the Board, on hearing, shall have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. An appeal of a ruling or decision of the Administrator shall be in writing and shall state why such ruling or decision is deemed incorrect or unlawful. The Board shall schedule any hearings and issue its decision within the periods prescribed by Ohio R.C.718.11. If the Taxpayer does not waive a hearing before the Board, the Taxpayer may appear before the Board and may be represented as provided by law.

(e) Any Person dissatisfied with any ruling or decision of the Board may appeal therefrom to a court of competent jurisdiction within 30 days after the announcement of such ruling or decision.

(f) For matters relating to Taxable Years beginning on or after January 1, 2004, any ruling or decision of the Board may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals within the 60-day period set forth, and in the manner provided, in Ohio R.C. 718.11 and 5717.011.
(Ord. 05-100. Passed 6-13-05.)

191.09 APPLICABILITY.

This Chapter shall not apply to any Person, Owner, Pass-Through Entity, Corporation, or property as to whom or which it is beyond the power of the City Commission to impose the tax herein provided.
(Ord. 05-100. Passed 6-13-05.)

191.10 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying the City tax upon the following:

- (a) Compensation or allowances received from local, state or federal governments because of active duty service in the Armed Forces of the United States and members of their reserve components, including the Ohio National Guard;
- (b) Poor relief, social security, unemployment compensation or from local, state or federal governments, or from charitable, religious or educational organizations (not including supplemental unemployment benefits and disability benefits due to total and permanent disability received from private industry);
- (c) Pensions and all other payments from:

- (1) A retirement plan that is tax-qualified under Code Section 401(a), 403(a), 403(b) or 457(b);
- (2) A retirement plan that is a governmental plan described in Code Section 414(d); or
- (3) A retirement plan that is a church plan described in Code Section 414(e); or
- (4) Any individual retirement account described in Code Section 408(a) or individual retirement annuity described in Code Section 408(b), including, without limitation accounts or annuities described in Code Section 408(k) (a simplified employee pension), Code Section 408(p) (a Simple IRA), Code Section 408(q) (a deemed IRA), or
- (5) A Roth IRA described in Code Section 408A;
- (d) Dues, contributions and similar payments (whether in money or in kind) received by charitable, religious, educational or literary organizations or by labor unions, lodges and similar other entities;
- (e) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona-fide charitable, religious, educational, organizations;
- (f) The income of any entity that is exempt from Federal Income Tax by reason of its charitable, religious, educational, literary, scientific or similar purposes, to the extent such income is excluded from Federal Income Tax;
- (g) Earnings and income of all persons subject to this chapter while under 18 years of age;
- (h) Intangible income as set forth as Ohio R.C. 718.01(A)(5), except as provided in the computation of Adjusted Federal Taxable Income under Section 191.02(a) and Ohio R.C. 718.01(A)(1);
- (i) The amount of unreimbursed Employee business expenses that the Taxpayer deducted as an itemized deduction on his Federal Income Tax return, as shown on the IRS Form 2106 filed with the Taxpayer's Federal Income Tax Return for the Taxable Year. For this exemption to be applicable, the Taxpayer must furnish a copy of the IRS Form 2106 and Schedule A as the same were filed with the Taxpayer's Federal Income Tax return for the Taxable Year;
- (j) 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;
- (k) Compensation and Net Profits the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of a municipal corporation to impose net income taxes.
 - (l) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as part of an ordained minister's compensation; the ordained minister 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 church (for this purpose, the term “church” includes all religious bodies and is not limited to Christianity); and

(m) An S corporation shareholder’s distributive share of net profits or losses of the S corporation, except to the extent that the distributive share of net profits represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.

(Ord. 05-100. Passed 6-13-05.)

191.11 COLLECTION OF UNPAID TAXES; CIVIL LITIGATION; CRIMINAL PROSECUTION; STATUTE OF LIMITATIONS; REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Such suit shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Prosecutions for an offense made punishable under 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 the Compensation or Net Profits required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) City Income Tax erroneously paid or withheld shall be refunded only upon a proper claim for refund made by the Taxpayer within the time specified in Ohio R.C. 718.12(C). Claims for refund shall be made on forms prescribed by the Finance Director and obtainable from the Administrator. Interest on any refund made to a Taxpayer shall be allowed and paid pursuant to the terms set forth in Ohio R.C. 718.12(D).

(d) At the election of the Taxpayer, the amount of City Income Tax erroneously paid or withheld may be applied toward the declaration of City Income Tax due for the ensuing year.

(Ord. 05-100. Passed 6-13-05.)

191.12 INTEREST AND PENALTIES.

(a) Interest. All taxes imposed and all moneys withheld or required to be withheld by Employers under the provisions of this Chapter and remaining unpaid after they have become due shall bear interest at the rate of one-and-one-half percent (1-1/2%) per month, or fraction thereof, on the unpaid balance.

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

(1) For failure to pay taxes due on a final return, ten percent (10%) per annum for each year, or fraction thereof, on the unpaid balance, with a minimum penalty of twenty-five dollars (\$25.00) for failure to make timely payment of City Income Tax due with an annual City Income Tax Return; or

(2) For failure to pay taxes on declaration in accordance with Section 191.16, ten percent (10%) per annum, on the unpaid balance, with a minimum penalty of ten dollars (\$10.00) per quarter for failure to file a declaration and/or pay taxes due pursuant to a required declaration; or

(3) For failure to file a timely annual City Income Tax Return, twenty-five dollars (\$25.00), regardless of whether any City Income Tax is due with such Return; or

(4) For failure to remit taxes withheld from Employees when due, the greater of three percent (3%) per month, or fraction thereof, on the unpaid balance, or ten dollars (\$10.00) per month for each month, or fraction thereof, that the tax remains unpaid.

(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, a penalty shall not be assessed on any additional City Income Tax assessment resulting from a federal or state audit, provided that an amended City Income Tax return is filed and the additional City Income Tax, if any, is paid within 30 days after final determination of the Federal or State Income Tax liability as set forth at Section 191.15(h). Interest on any additional City Income Tax due will be assessed from the original due date of the return at the rate of one-and-one-half percent (1-1/2%) per month, or portion thereof, on the unpaid balance. Interest will be paid on any overpayment of City Income Tax from the date of such overpayment to the date of the refund of such overpayment, at the rate and pursuant to the terms set forth in Ohio R.C. 718.12(D) and Ohio R.C. 5703.47.

(d) Abatement. The Administrator may abate penalty or interest, or both, for good cause shown under guidelines established by the Board. The Board may abate penalty and/or interest of a Taxpayer who appeals for such abatement under the provisions of Section 191.08 subsequent to a denial of such abatement by the Administrator.

(Ord. 05-100. Passed 6-13-05.)

191.13 VIOLATIONS.

(a) The following shall be considered violations of this Chapter:

- (1) Failing, neglecting, or refusing to make any return or declaration required by this Chapter;
- (2) Making an incomplete, false, or fraudulent return;
- (3) Failing, neglecting, or refusing to pay the tax, penalties, or interest imposed by this Chapter;
- (4) Failing, neglecting, or refusing to withhold the tax from Employees or to remit the withholding to the Finance Director;
- (5) Refusing to permit the Administrator or any duly authorized agent or Employee to examine books, records, and papers and Federal Income Tax returns relating to the income or Net Profits of a Taxpayer;
- (6) Failing to appear before the Administrator and to produce books, records, Federal Income Tax returns, and papers relating to the income or Net Profits of a Taxpayer upon order or subpoena of the Administrator.
- (7) Refusing to disclose to the Administrator any information with respect to the income, Compensation, or Net Profits of a Taxpayer;
- (8) Failing to comply with the provisions of this Chapter or any order or subpoena of the Administrator authorized hereby;
- (9) Giving to an Employer false information as to the Employee's true name, correct Social Security number and residence address, or failing to promptly notify an Employer of any change in residence address and date thereof;
- (10) Failing to use ordinary diligence in maintaining proper records of Employees' residence addresses, total Compensation paid and City Income Tax withheld, or knowingly giving the Administrator false information; or,
- (11) Attempting to do anything whatever to evade the payment of the whole or any part of the City Income Tax, penalties or interest imposed by this Chapter.

(b) The failure of any Employer, Taxpayer, or Person to receive or procure a return, declaration, or other required form shall not excuse such Employer, Taxpayer, or Person from making any information return or declaration, from filing the form, or from paying the tax.

(Ord. 05-100. Passed 6-13-05.)

191.14 CONTRACTOR AND SUBCONTRACTOR REGISTRATION.

Contractors or Sub-contractors doing construction or other building work for hire in the City must register with the Division of Taxation prior to the start of construction or commencement of work. Contractors or Sub-contractors who are licensed by the Division of Building shall be presumed to have met this registration requirement. Other Contractors or Sub-contractors must complete the required registration with the Division of Taxation. All Contractors must maintain a current registration with the Division of Taxation to insure the issuance of any required building permits by the Division of Building. Registration shall include the Contractor or Sub-contractor's name, address, Social Security number and/or Taxpayer Identification number, and principal place of business and, in the case of

a Corporation, the name, address and Taxpayer Identification number and the statutory agent. The Division of Taxation shall issue a certificate of registration to Contractors and Sub-contractors who register with the Division. Contractors shall be responsible for the registration of all Sub-contractors working, operating or conducting business at the direction or request of the Contractor. If the identity of the Sub-contractor is unknown at the time of the initial registration of a Contractor, such registration shall be permitted, upon compliance with all other provisions herein. Upon determining the identity of any Sub- contractors not known at the time of initial registration, the Contractor, as well as any Sub- contractors, must, within 15 days of such identification, provide to the Division of Taxation the information as required above. Failure to provide such information within such 15-day period shall result in revocation of the registration already made by and certificate already issued to the Contractor.

Revocation shall also occur in the event of failure to file tax returns, including withholding returns, failure to be current in the obligation to file tax returns, including withholding returns, failure to withhold and/or pay any taxes, interest or penalties owed to the City, failure to be current in the obligation to pay any taxes, interest or penalties owed to the City, or for other good cause articulated by the Division of Taxation. Otherwise, the registration shall be valid indefinitely, but shall be amended within 15 days of a change in any relevant information as set forth herein to be declared. Failure to make such amendment shall result in the revocation of the registration, subject to reregistration in compliance with this section.

(a) Any fees for the above registration shall be set by the Division of Taxation and shall bear a reasonable relation to the expense for services and/or forms involved in such registration and the issuance of such certificate.

(b) Persons, Pass-Through Entities or Corporations conducting transient and/or temporary work within the City shall be subject to registration, but the Division of Taxation is authorized to charge a reasonable blanket amount to such Contractors and/or Sub-contractors to cover registration fees and any City Income Taxes likely to be incurred in consequence of the work to be performed in the City. However, this blanket amount shall not include the responsibility and liability for Employees' withholding taxes, which still shall be required under this Chapter, unless the same has specifically been included in the blanket amount. If such Taxpayer does not wish to pay the blanket amount suggested by the Division of Taxation, the Taxpayer shall be charged a registration fee as set forth herein, and shall be responsible for filing all City Income Tax returns and paying all City Income Taxes, penalties and interest under this Chapter.

(c) Whoever fails, neglects or refuses to make the registration set forth in this Section 191.14, to obtain the above-described certificate, and to keep the same current, but nonetheless engages in construction and/or repair work within the City shall be subject to fine or imprisonment, or both, pursuant to Section 191.99. Each

day the violation is committed or is permitted to continue shall constitute a separate offense.

(d) The Division of Taxation may provide written notice ordering any Person, Pass- Through Entity, or Corporation that is not in compliance with any provision of this Section 191.14 to cease and desist construction and/or repair work within the City until that Person, Pass-Through Entity, or Corporation complies with the provisions of this Section 191.14. Until compliance is attained, an injunction and/or restraining order may be granted by a court of competent jurisdiction, upon proper application of the Division of Taxation, to prevent further violations of this Section 191.14 under penalty of law as set forth herein.

(Ord. 05-100. Passed 6-13-05.)

191.15 ANNUAL RETURN AND PAYMENT OF TAX.

(a) Each Taxpayer having Taxable Income for a Taxable Year that could be subject to the tax imposed by this Chapter, whether or not a tax is due thereon, shall make and file a return on or before April 15 of the following calendar year in the case of a Taxpayer using a calendar year for Federal Income Tax purposes or on or before the fifteenth (15th) day of the fourth month after the end of the Fiscal Year in the case of a Taxpayer using a Fiscal Year for Federal Income Tax purposes.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator, or on any form that comports with Ohio R.C. 718.05(C) as a generic form, setting forth:

(1) The aggregate amounts of Compensation earned, and the gross income from a Business less allowable expenses incurred in the acquisition of such gross income to arrive at Net Profits. Only Compensation earned or received and gross income earned during the Taxable Year, or portion thereof, covered by the return and subject to the tax imposed by this Chapter shall be included on that return.

(2) The amount of tax imposed by this Chapter on Compensation and Net Profits, less any credits to which the taxpayer may be entitled under the provisions of Sections 191.04, 191.16, or 191.17.

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

(4) A return shall be deemed filed when postmarked by the United States Postal Service or on the date delivered other than by the United States Postal Service during normal business hours to the Division of Taxation.

For Taxable Years beginning on or after January 1, 2005, a business the Net Profits of which are subject to tax under this Chapter may file its annual City Income Tax return and the estimated City Income Tax Returns described in Section 191.16 by using the Ohio business gateway.

(c) Extension of Time for Filing Returns. The Administrator may extend the due date for filing the annual return upon the request of a Taxpayer, until the last day of the month following the month to which an extension is granted by the Internal Revenue Service for the filing of the Taxpayer's Federal Income Tax Return for the same Taxable Year. A Taxpayer shall request an extension of the due date for filing an annual return by filing with the Administrator a copy of the Taxpayer's request for an extension of time to file the Taxpayer's Federal Income Tax Return for the same Taxable Year no later than the last day prescribed by Section 191.16(a) for the filing of the annual return, or by filing a written request by such date. For Taxable Years beginning on or after January 1, 2005, a Taxpayer who is subject to City Income Tax on its Net Profits and who receives an extension for filing the Federal Income Tax Return will receive an extension for filing the City Income Tax Return for the same Taxable Year by filing a notice of such extension through the Ohio business gateway in compliance with Ohio R.C. 718.051(B), but such Taxpayer must pay any City Income Tax owed by the unextended due date for filing the City Income Tax Return, as provided in Section 191.15(a) and 191.16(h).

A request to extend the due date for filing an annual return will be granted automatically unless the Taxpayer:

- (1) Fails to timely file such request;
- (2) Fails to file a copy of the request for an extension of the due date for filing the Taxpayer's Federal Income Tax Return for the same Taxable Year;
- (3) Owes any delinquent City Income Tax, penalty, interest, assessment, or other charge for the late payment or nonpayment of City Income Tax; or
- (4) Has failed to file any required City Income Tax return, report, or other related document for a prior Taxable Year.

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. A penalty shall not be assessed if the return is filed and the full amount of tax shown on that return is paid on or before the extended due date. Interest shall be charged on the unpaid balance at the rate of one-and-one-half percent (1-1/2%) per month, computed monthly, for the period of the extension, with any portion of a month to be charged as a full month.

(d) Owners of a Pass-Through Entity that is subject to the tax imposed by this Chapter must file individual City Income Tax Returns and report thereon their respective distributive shares of the profits or losses of the Pass-Through Entity and pay the City Income Tax on the portion of the Pass-Through Entity's Net Profit that is subject to City Income Tax.

(e) If an individual who is Taxpayer is deceased, any City Income Tax return required of such individual under this Chapter shall be made and filed by the Fiduciary of his estate or other person charged with the property of that decedent.

City Income Tax returns required of an estate or trust shall be made and filed by the Fiduciary thereof.

(f) Each return required to be filed under this Chapter shall be signed by the Taxpayer or his duly authorized agent, and shall include the Taxpayer's Social Security number or Employer Identification number.

(g) Should the return, or the records of the Administrator, indicate an overpayment of the tax to which the City is entitled under the provisions of this Chapter, such overpayment shall first be applied against any existing liability, including penalties and interest, of the Taxpayer to the City, and the balance, if any, at the election of the Taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability of the Taxpayer to the City.

(h) 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 191.04 and 191.11. Such amended returns shall be on a form obtainable on request from the Administrator. A Taxpayer may not change the method of accounting or apportionment of Net Profits after the due date for filing the original return.

Within 30 days from the final determination of any Federal or State Income Tax liability affecting the Taxpayer's City Income Tax liability, the Taxpayer shall make and file an amended City Income Tax Return, showing income subject to City Income Tax based upon such final determination of Federal or State Income Tax liability, and pay any additional City Income Tax shown due thereon or make claim for refund of any overpayment.

(Ord. 05-100. Passed 6-13-05.)

191.16 DECLARATION OF ESTIMATED TAX; PAYMENT.

(a) Every Person who anticipates any Taxable Income that is not subject to the provisions of Section 191.17, or who engages in any Business subject to City Income Tax shall file a declaration setting forth such estimated income or the estimated Net Profit from such Business together with the estimated City Income Tax due thereon, if any. No declaration or payment of estimated tax is required if the estimated City Income Tax for the current year, less the City Income Tax to be withheld and less the tax credits provided under this section and Sections 191.17 and 191.04, amounts to not more than ten dollars (\$10.00), or if a Person's income is wholly from Compensation from which City Income Tax will be withheld and remitted to the City in accordance with Section 191.17.

(b) Such declaration shall be filed on or before April 15 of each Taxable Year during the effective period of this Chapter, or within four months of the date the Taxpayer first becomes subject to tax imposed by this Chapter.

(c) Those Taxpayers reporting on a Fiscal Year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month after the beginning of each Fiscal Year.

(d) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator. Credit shall be taken for City Income Tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for income tax payable to other Taxing Municipalities in accordance with the provisions of Section 191.04.

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

(f) The declaration of estimated City Income Tax to be made shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual City Income Tax made payable to the "Finance Director of the City of Sandusky." At least a similar amount shall be paid on or before the 30th days of the sixth, ninth and twelfth months after the beginning of the Taxable Year. When an amended return has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) (1) Notwithstanding subsection (f) hereof, every individual making the declaration with respect to Taxable Income not subject to Section 191.17 for a Taxable Year beginning on or after January 1, 2003, shall remit payment of the estimated annual City Income Tax as follows:

A. At least twenty-two and one-half percent (22.5%) of such individual's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before April 15 or the day on which the annual tax return for the prior Taxable Year must be filed, in accordance with Section 191.15, disregarding any extension;

B. At least forty-five percent (45%) of such individual's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before July 31;

C. At least sixty-seven and one-half percent (67.5%) of such individual's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before October 31; and

D. At least ninety percent (90%) of such individual's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before January 31 of the following Taxable Year.

(2) Every Person making the declaration with respect to the Taxable Income from any Business subject to City Income Tax shall remit payment of the estimated annual City Income Tax as follows:

A. At least twenty-two and one-half percent (22.5%) of the Taxpayer's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before the day on which the annual return for the prior Taxable Year must be filed, in accordance with Section 191.15, disregarding any extension or, in the case of a Fiscal Year Taxpayer, the fifteenth day of the fourth month of the Taxpayer's Taxable Year;

B. At least forty-five percent (45%) of the Taxpayer's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before June 15, or in the case of a Fiscal Year Taxpayer, the fifteenth day of the sixth month of the Taxpayer's Taxable Year;

C. At least sixty-seven and one-half percent (67.5%) of the Taxpayer's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before September 15, or in the case of a Fiscal Year Taxpayer, the fifteenth day of the ninth month of the Taxpayer's Taxable Year; and

D. At least ninety percent (90%) of the Taxpayer's estimated City Income Tax liability for the current Taxable Year shall be remitted on or before December 15, or, in the case of a Fiscal Year Taxpayer, the fifteenth day of the twelfth month of the Taxpayer's Taxable Year.

(3) All payments of estimated annual City Income Tax made pursuant to this subsection (g) shall be made after deducting:

A. Any portion of City Income Tax to be deducted or withheld at the source pursuant to Section 191.17;

B. Any credits allowable under the provisions of Section 191.04; and

C. Any overpayment of the previous year's City Income Tax liability that the Taxpayer has not elected to have refunded or previously claimed as a credit.

(h) On or before the fifteenth (15th) day of the fourth month following the end of the Taxable Year for which such declaration or amended declaration was filed, an annual return shall be filed, and any balance that may be due to the City shall be paid therewith in accordance with the provisions of Section 191.15. Any Taxpayer, however, may file an annual return on or before the last day of the first month following the end of the Taxable Year for which such declaration or amended declaration was filed and pay any balance due at such time in lieu of filing such declaration or amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(i) An amended declaration must be filed when the original declaration made for a Taxable Year underestimates the Taxpayer's Taxable Income by ten percent (10%) or more. The unpaid balance of estimated tax shall be paid in equal installments on or before the payment dates provided in subsections (f) and (g) hereof. If a Taxpayer fails to remit the full amount of estimated City Income Tax required to be paid by an applicable due date specified in subsections (f) and (g)

hereof, such underpayment of estimated City Income Tax shall be subject to the interest and penalty provisions of Section 191.12. No penalty, interest, interest penalty, or other similar assessment or charge, however, shall be imposed against a Taxpayer for the late payment or nonpayment of estimated City Income Tax in either of the following circumstances:

- (1) The Taxpayer is a Resident but was not domiciled in the City on January 1 of the calendar year; or
- (2) The Taxpayer has remitted, pursuant to subsections (f) and (g) hereof, an amount at least equal to one hundred percent (100%) of the Taxpayer's City Income Tax liability for the preceding Taxable Year as shown on the return filed by the Taxpayer for the preceding Taxable Year, provided that the return for the preceding Taxable Year reflected a 12-month period and the Taxpayer filed a return for the preceding Taxable Year.

(Ord. 05-100. Passed 6-13-05.)

191.17 WITHHOLDING BY EMPLOYER - COLLECTION AT SOURCE.

(a) Each Employer within or doing Business in the City who or that employs one or more Persons shall, at the time of payment of Compensation, deduct the City Income Tax at the applicable rate then in effect from the gross Compensation earned or received by Residents, regardless of where such Compensation was earned or received, and shall deduct that City Income Tax from the Compensation earned or received from work done or services performed or rendered in the City by Nonresidents. Over the road drivers reporting to a terminal located in the City shall have a minimum of ten percent (10%) of their Compensation allocated to the City on which City Income Tax shall be deducted.

(b) Each Employer subject to the provisions of this Section 191.17 shall, on or before the last day of the month, make a return and remit to the City the City Income Tax withheld in the previous month. Such return 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 City Income Tax required to be deducted and withheld, whether or not such Tax has in fact been withheld. If the amount of the City Income Tax so deducted by an Employer in any one month is less than one hundred dollars (\$100.00), however, the Employer may defer the filing of a return and payment of the amount deducted for that month and the following one or two months in that calendar quarter until the last day of the month following the end of the calendar quarter in which that month occurs.

(c) On or before each January 31, each Employer subject to the provisions of this Section 191.17 shall file with the Administrator an annual reconciliation return for the prior calendar year along with an information return

for each Employee from whom City Income Tax has been, or should have been, withheld for the prior calendar year showing the name, address and Social Security number of the Employee, the total amount of Compensation paid during the year to such Employee and the amount of City Income Tax withheld from the Compensation of such Employee and shall provide a copy of such information return to the Employee. The information return shall include all of the information required to be reported by the Employer to the Internal Revenue Service on a Form W-2. At the time of filing the annual reconciliation return, the Employer shall pay over any amounts deducted or that should have been deducted during the preceding calendar year but that were not previously remitted. The annual reconciliation form shall be obtained from the Tax Administrator. Failure to comply with this subsection (d) may result in the disallowance of all or part of the deduction for Compensation taken by the Employer for City Income Tax purposes.

(d) In collecting City Income Tax, the Employer shall be deemed to hold the same as a trustee for the benefit of the City until such Employer makes payment to the City, and such Tax collected by such Employer from its Employees shall be deemed a trust fund in the hands of such Employer until paid to the City.

(e) On or before each January 31, any Person who contracts or otherwise engages another Person to perform services or conduct Business for remuneration in any form, including, but not limited to, the sale of real estate, the sale of insurance, construction, transportation, or other contract or subcontract services, shall file with the Administrator an information return on a form prescribed by the Administrator, which shall include the proper name, address, federal identification number and the amount of such remuneration paid during the prior calendar year to such Person. Failure to provide the foregoing information may result in the disallowance of any deduction claimed by the Taxpayer in respect of payments made to another Person under contract or other engagement for the performance of services or conduct of Business.

(f) On or before each January 31 and each July 31, any Person engaged in the rental of real estate that receives Rental Income, as described in Section 191.02(ff), shall file with the Administrator a list of tenants as of December 31 and June 30, respectively, including the name and address of each tenant.

(g) Any return or form required to be filed under this Section 191.17 is considered filed on the date postmarked by the United States Post Office or on the date delivered other than by the United States Postal Service during normal business hours to the Division of Taxation.

(h) If City Income tax is withheld as required under this Section 191.17 and is not paid over to the City, the officer, Employee or Owner (“Responsible

Person”) of an Employer having control of or supervision of, or charged with the responsibility of, making the payment of the withheld City Income tax as required under this Section 191.17, shall be personally liable for failure to pay such tax, and penalty and interest. The dissolution, bankruptcy, or reorganization of any such Employer required to file the return and pay the tax described in this Section 191.17 does not discharge a Responsible Person’s liability for a prior failure of such Employer to pay such tax, and penalty and interest due thereon.

(i) For taxable years beginning on or after January 1, 2007, any Employer subject to this Section 191.17 may use the Ohio business gateway both to report the amount of City Income Tax withheld from Compensation and to remit such amounts.

(Ord. 05-100. Passed 6-13-05.)

191.18 SEPARABILITY.

If any sentence, clause, section or part of this Chapter or any tax against any individual or any of 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 the City Commission that this Chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

(Ord. 05-100. Passed 6-13-05.)

191.19 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This Chapter shall continue effective insofar as the levy of taxes is concerned until revoked, 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 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 have been fully terminated.

(b) Returns due for all or any part of the last effective year of this Chapter shall be due on the dates provided in Sections 191.15 and 191.17 as though this Chapter were continuing.

(Ord. 05-100. Passed 6-13-05.)

191.99 PENALTY.

(a) Any Taxpayer who violates any of the provisions of this Chapter shall be subject to prosecution for such violation and, upon conviction for such

violation, shall be guilty of a first degree misdemeanor. All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.12(B).

(b) If any other prior ordinance or resolution regarding City Income Tax is found to be in conflict with this Chapter, the provisions of this Chapter shall prevail.

(Ord. 05-100. Passed 6-13-05.)

191.05 RECIPROCITY PROVISIONS - CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(a) Residents. Except as provided in subsection (b), below, when a Resident is subject to and has paid, or has acknowledged liability for, a municipal income tax in another Taxing Municipality on the same income taxable under this Chapter, regardless of whether such other Taxing Municipality allows credit to its nonresidents, such Resident may claim a credit in an amount equal to the lesser of (i) fifty percent (50%) of the amount of such tax paid to such other Taxing Municipality or (ii) fifty percent (50%) of the City Income Tax on such income taxable under this Chapter.

In no case shall the credit authorized by this subsection (a) exceed fifty percent (50%) of the City Income Tax assessed under this Chapter.