

CITY OF TWINSBURG, OHIO

RESOLUTION 98-2013

A RESOLUTION REQUESTING AND AUTHORIZING THE SUMMIT COUNTY BOARD OF ELECTIONS TO PLACE UPON THE CITY OF TWINSBURG BALLOT AT THE GENERAL ELECTION OF NOVEMBER 5, 2013, THE QUESTION OF WHETHER ORDINANCE 31-2013 PROPOSING TO AMEND SECTION 181.03 OF THE CODIFIED ORDINANCES OF THE CITY OF TWINSBURG BY REDUCING THE INCOME TAX RATE TO TWO PERCENT (2.00%) BE APPROVED

WHEREAS, after having read the Ordinance on three separate occasions (February 26; March 12; and March 26, 2013), Council enacted Ordinance 31-2013 proposing to amend Section 181.03 of the Twinsburg Municipal Income Tax; and

WHEREAS, such Ordinance was in response to Council and the Administration's commitment to revisit the 2009 quarter percent income tax increase; and

WHEREAS, said Ordinance 31-2013 is presently on file and available for inspection in the office of the Clerk of Council; and

WHEREAS, Council and the Administration have determined that the City's financial landscape has improved since 2009 and the Administration is convinced that it can continue to provide funds for the purpose of maintaining municipal operations, maintenance, new equipment, extension and enlargement of municipal services, facilities, and capital improvements, and it is in the best interest of the City of Twinsburg to give the residents the option to reduce the income tax structure.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Twinsburg, County of Summit and State of Ohio:

SECTION I: That the question of a proposed amendment to the tax rate set forth in section 181.03 of the Codified Ordinances of the City of Twinsburg shall be submitted to a vote of the qualified electors of the City of Twinsburg at the general election to be held on the 5th day of November, 2013, at the regular places of polling in said municipality between the hours set forth by the Summit County Board of Elections.

SECTION II: That the ballot at the top thereof be entitled "PROPOSED AMENDMENT TO THE MUNICIPAL INCOME TAX" and the question to be separately submitted on said ballot shall be substantially in the words and in the following form which may however be synopsized on the ballot by reference to an appropriate title to the issue:

“SHALL ORDINANCE 31-2013 PROVIDING FOR AN AMENDMENT IN THE MUNICIPAL TAX RATE BY REDUCING THE LEVY ON INCOME TO TWO PERCENT (2%), EFFECTIVE 12:01 AM, JANUARY 1, 2014, BE PASSED?”

FOR THE AMENDMENT

AGAINST THE AMENDMENT

SECTION III: That in the event the foregoing amendment to section 181.03 of the codified ordinance is approved by a majority of the electors voting thereon, effective 12:01 AM, January 1, 2014, Section 181.03 (a) of the Codified Ordinances of the City of Twinsburg, Ohio, is hereby repealed and reenacted as set forth in Ordinance 31-2013, and henceforth all sections of Chapter 181 of the Codified Ordinances of the City of Twinsburg shall be interpreted to include the changes made; provided, however, that no provision of this Ordinance, including the repeal of the section referred to herein 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 Municipal Income Tax authorized by said section prior to the amendment.

SECTION IV: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meeting or meetings of this Council, and that all deliberations of this Council were in meetings open to the public and in full compliance with all legal requirements, including without limitations, those set forth in Section 121.22 of the Ohio Revised Code.

SECTION V: That this Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: _____

APPROVED: _____

Seth Rodin, President of Council

Submitted to the Mayor for approval this
_____ day of _____, 2013

Approved by the Mayor _____, 2013

Katherine A. Procop, Mayor

ATTEST:

Shannon Collins
Clerk of Council

Passed: _____

Yes _____ No _____

CERTIFICATE OF POSTING

I, Shannon Collins, Clerk of Council of the City of Twinsburg, State of Ohio, do hereby certify that publication of the foregoing ordinances, resolutions was duly made by posting true copies thereof at five of the most public places in said City as determined by Section 113.02 of the Codified Ordinances of the City of Twinsburg; each for a period of fifteen days commencing on the _____ day of _____, 2013

Shannon Collins
Clerk of Council
City of Twinsburg

CHAPTER 181
Municipal Income Tax

- 181.01 Purpose.
- 181.02 Definitions.
- 181.03 Rate and income taxable.
- 181.04 Determination of allocation of tax.
- 181.05 Exemptions.
- 181.06 Returns.
- 181.07 Payment of tax.
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- 181.13 Separability and duration.
- 181.14 Interest and penalties on unpaid tax.
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CROSS REFERENCES

Limitation on rate of taxation - see CHTR. §6.01
Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718

181.01 PURPOSE.

To provide funds for the purposes of municipal operations, maintenance, new equipment, extension and enlargement of municipal services, facilities and capital improvements of the City, there is hereby levied a tax on salaries, wages, commissions and other compensation and on net profits as hereinafter provided. (Ord. 85-1967. Passed 12-12-67.)

181.02 DEFINITIONS.

For the purposes of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in this section.

(a) "Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the City.

(b) "Assignment" means the assignment of a resident of the City of the claim for an income tax refund from another taxing municipality granting reciprocal credit to its nonresidents.

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

(d) "Board of Review" means the Board created by and constituted as provided in Section 181.12(a).

(e) "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, excluding, however, all nonprofit corporations which are exempt from the payment of Federal Income Tax.

(f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, this State or any other state, territory or any foreign country or dependency.

(g) "Earned Income" means income is earned when services giving rise to the income are performed and when there is no substantial risk of forfeiture to the rights to the income. All contributions to retirement plans, as well as all other income deferrals of any type that are required to be reported for FICA purposes are earned income.

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

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

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

(k) "Gross receipt" means the total income from any source whatever.

(l) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses paid or accrued in accordance with the accounting system used by the taxpayer for Federal Income Tax purposes, without deduction of taxes imposed by this chapter, Federal or State, and other taxes based on income, and in the case of an association without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.

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

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

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

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

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

(r) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
(Ord. 145-2000. Passed 10-24-00.)

(s) "Taxable income" means wages, salaries, commission, lottery winnings and other compensation or any income which is not prohibited by this ordinance, State or Federal law, paid to an employee by, or which an employee has earned, or is, at any time, entitled to from an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity in accordance with the provisions of this chapter. (Ord. 111-2001. Passed 9-18-01.)

(t) "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.

(u) "Taxing municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals and on the net profits earned from the operation of a business, profession or other activity.

(v) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. (Ord. 145-2000. Passed 10-24-00.)

181.03 RATE AND INCOME TAXABLE.

(a) An annual tax for the purposes specified in Section 181.01, shall be imposed at the rate of two and a quarter percent (2.25%) per annum, upon the following:

(1) On all salaries, wages, commissions and other compensation earned on and after the effective date of this chapter by residents of the City.

(2) On all salaries, wages, commissions and other compensation earned on or after the effective date of this chapter, by nonresidents of the City for work done or services performed or rendered within the City.

(3) A. On the portion attributable to the City of the net profits earned on and after the effective date of this chapter, 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.

B. On the portion of the distributive share of the net profits earned on or after the effective date of this chapter, 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, provided, however, if any portion thereof is allocable to another taxing municipality, credit for tax due or paid such other taxing municipality shall be claimed in accordance with Section 181.09 hereof.

(4) A. On the portion attributable to the City of the net profits earned on or after the effective date of this chapter, 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.

B. On the portion of the distributive share of the net profits earned on or after the effective date of this chapter, 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 provided, however, if any portion thereof is allocable to another taxing municipality, credit for tax due or paid such other taxing municipality shall be claimed in accordance with Section 181.09 hereof.

(5) On the portion attributable to the City of the net profits earned on and after the effective date of this chapter, 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.

(b) Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after the effective date of this chapter.

(Ord. 108-2009. Passed 7-14-09.)

181.04 DETERMINATION OF ALLOCATION OF TAX.

(a) Method of Determination. The portion of the net profits attributable to the City of a taxpayer conducting a business, profession, or other activity both within 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 Taxation Code.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted so as to produce such result

(b) Total Allocation. Add together the percentages determined in accordance with subparagraphs 1, 2, and 3 of Ohio R.C. 718.02(A) or such of the aforesaid 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 subsection (a) of this section.

A factor is applicable even though it may be allocable entirely in or outside the City.
(Ord. 111-2001. Passed 9-18-01.)

(c) Rentals.

(1) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subparagraph (3), (4) and (5) of Section 181.03(a), 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) constitutes a business activity of the taxpayer in whole or in part.

(2) 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; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he 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 persons who operate a rooming house of five or more rental rooms, shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.

(3) It shall be mandatory for every property owner subject to this section to submit a list to the Tax Administrator of names, addresses, social security and or federal identification number and such other pertinent statements, information returns or other information as the Administrator may require, of all persons, firms, corporations or other entities occupying, leasing, renting or otherwise using any premises within this Municipality in such a manner as to produce economic benefit to the property owner, whether or not such benefit is called "rent" and whether or not such benefits result in a profit or loss. The required list shall be prepared and submitted on or before last day of each and every month and at such other times as may be ordered by the Tax Administrator.

(d) Operating Loss. Effective January 1, 2004, the City of Twinsburg will not allow net operating loss carry forwards.
(Ord. 38-2004. Passed 4-27-04.)

(e) Disallowing Offsetting of Schedules. A net loss from business activities may not offset or be used to offset earned income such as wages, salaries or other taxable compensation.

Income or loss represented by each Federal Income Tax schedule shall be considered a separate source of income or loss. Loss on one schedule may not be used to offset profit shown on any other schedule.
(Ord. 15-2006. Passed 2-28-06.)

181.05 EXEMPTIONS.

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

(a) Pay or allowances of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(b) Poor relief, unemployment insurance benefits, old age pensions 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 death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;

(d) Receipts from seasonal or casual entertainment amusements, sports events and health and welfare activities when 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 for personal injuries or for damages to property by way of insurance or otherwise;
- (h) Interest and dividends;
- (i) 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);
- (j) 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;
- (k) Salaries, wages, commissions and other 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 the City to impose net income taxes.
- (l) I.R.S. Section 125 Cafeteria Plans.
(Ord. 38-2004. Passed 4-27-04.)

181.06 RETURNS.

- (a) Filing Date. Each taxpayer except as herein provided 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, and on or before April 15 of each year thereafter. Returns postmarked on or before April 15 shall be deemed to have been filed timely. When the return is made for the fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator may be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensations.
(Ord. 61-2005. Passed 6-14-05.)

(b) Form and Content. The return shall be filed with the Administrator on a form or forms furnished by or obtained from the Administrator. Generic forms containing all required information and in the same format as City forms are acceptable subject to approval by the Administrator. The return shall set forth:

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

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

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

(Ord. 9-2001. Passed 2-27-01.)

(c) Extension of Time for Filing. The Administrator may extend the time for filing the annual return upon written request by the taxpayer or with a copy of the federal extension, for a period not to exceed six months or one month beyond any extension request of or granted by the internal revenue service for the filing of the federal income tax return. Extensions are to be submitted by the original due date of the return and accompanied by payment including the current year estimated tax payments.

(Ord. 38-2004. Passed 4-27-04.)

(d) Consolidated Returns.

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

(2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting only a portion of its total business, the Administrator shall require such additional information as he deems 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 shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

(e) Amended Returns.

(1) 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 181.08 and 181.09. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

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

(Ord. 173-1996. Passed 11-26-96.)

181.07 PAYMENT OF TAX.

(a) Payment on Filing the Return.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator with acceptable tender, the amount of taxes shown due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of subsection (b) hereof, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of subsection (c) hereof, or where in income tax has been paid to another municipality, credit for the amount so paid in accordance with subsections 181.09(a) and (b), 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.

(Ord. 173-1996. Passed 11-26-96.)

(2) A taxpayer who has overpaid the amount of the 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 election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(Ord. 173-1996. Passed 11-26-96.)

(b) Collection at Source.

(1) Each employer shall at the time of the payment or earning of, or entitlement to, any salary, wage, commission, or other compensation, deduct the tax imposed by Section 181.03(a) hereof from the gross salaries, wages, commissions or other compensation, then or at any time in the future, due from the employer to his employees who are subject to the provisions of this chapter. In making such deduction, the employer shall compute the tax to the nearest full cent so that mills of five or more shall be increased to the next full cent and mills of less than five shall be dropped. No person shall be entitled to a refund merely because such rounding of the tax results in any apparent overpayment based on such total earnings. Each employer shall, on or before the last day of each month, make a return and pay to the Administrator the tax withheld during the preceding month. However, the Administrator shall have the authority to approve the filing of returns and payment of the tax withheld on a quarterly basis, provided that monthly employer withholdings do not exceed the sum of one hundred dollars (\$100.00) in any monthly collection period. In such case, the employer shall, on or before the last day of each month following the calendar quarters ending March 31, June 30, September 30 and December 31, make a return and pay to the Administrator the tax withheld during the preceding calendar quarter. Such approval for quarterly filings and payments may be withdrawn by the Administrator when it is to the best interest of the City to do so. The Administrator shall provide by regulation the manner in which such approval shall be granted or withdrawn. Whenever any employer's monthly withholdings exceed the sum of one hundred dollars (\$100.00), the employer shall not remit to the City on a quarterly basis but shall remit on a monthly basis no later than thirty days after the preceding month's withholding, to the end that within one month after withholding such funds shall be paid unto the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such has in fact been withheld. Inasmuch as the City does not recognize, and has never recognized, application of any tax deferment programs to Municipal income taxes, no employer may fail to comply with the withholding and payment responsibilities of this subsection the basis of any such program.

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

(3) No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed by him 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.

(4) No later than February 28 of each year, each employer shall file a withholding return on a form prescribed by and obtainable upon request from the Administrator, setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the rules and regulations adopted by the Administrator. (Ord. 38-2004. Passed 4-27-04.)

(c) **Declarations of Income Not Collected at Source.** Every person who anticipates any taxable income which is not subject to subsection (b) hereof, or who engages in any business, profession, enterprise or other activity subject to the tax imposed by Section 181.03(a) hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any, provided, however, if a person's income is wholly from wages from which the tax imposed by Section 181.03 (a) will be withheld and remitted to the City in accordance with subsection (b) hereof, such person need not file a declaration. (Ord. 173-1996. Passed 11-26-96.)

(d) **Filing of Declaration.**

(1) The declaration required by subsection (c) hereof shall be filed on or before April 15 of each year during the effective period set forth in subsection 181.03(b) or within four months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period. (Ord. 61-2005. Passed 6-14-05.)

(e) **Form of Declaration.**

(1) The declaration required by subsection (c) hereof shall be filed upon a form furnished by or obtainable from the Administrator, provided, however, credit shall be taken for the City tax to be withheld from any portion of such income. In accordance with the provisions of Sections 181.09(a) or (b), credit may be taken for the tax to be paid to or to be withheld and remitted to another taxing municipality.

(2) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein. (Ord. 173-1996. Passed 11-26-96.)

(f) Payment; to Accompany Declaration. Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least twenty-two and a half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before July 31, October 31 and January 31 of the taxable year. However, if an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(Ord. 38-2004. Passed 4-27-04.)

(g) Annual Return. On or before the 15th of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 181.07(a).

(Ord. 61-2005. Passed 6-14-05.)

181.08 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as other Debts. 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. Except in the case of fraud, of omission of a substantial portion of income subject to this tax or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later, provided, however, 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.

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

Determination of the amounts of, and method of issuance of, a refund shall be determined by the Tax Administrator.

(Ord. 173-1996. Passed 11-26-96.)

(c) Amounts of Less Than Five Dollars. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

(Ord. 33-2000. Passed 4-11-00.)

181.09 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

Every individual taxpayer who resides in the City but receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside the City, if it appears that he has correctly paid a municipal income tax on such net profits, salary, wages, commissions or other compensation to another municipality, shall be allowed a credit on the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such net profit, salary, wages, commission or compensation earned in such other municipality or municipalities where such tax is paid.

(Ord. 164-1999. Passed 10-26-99.)

181.10 DISBURSEMENT OF RECEIPTS OF TAX COLLECTION.

(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 used for municipal purposes as are appropriated through ordinances adopted by Council; however, one hundred percent (100%) of said balance shall be allocated to the General Fund and Zero Percent (0%) of said balance shall be deposited in a City of Twinsburg Capital Improvements Fund for fiscal year 2010.

(Ord. 176-2009. Passed 12-15-09.)

181.11 DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

(a) 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.

(b) Duty to Enforce Collection. 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 and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof.

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

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

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 181.08(a) and 181.99(a) of this chapter shall apply.

(e) 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.

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

(g) Authority to Compel Production of Records. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income. For this purpose he 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.

(h) Refusal to Produce Records. The refusal to produce books, papers, records and Federal income tax returns, 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 this chapter punishable as provided in Section 181.99(a).

(Ord. 85-1967. Passed 12-12-67.)

(i) 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 and no disclosure thereof shall be made except to municipal, State or federal taxing agencies, except as required for official tax purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall be punished as prescribed in Section 181.99.

(Ord. 9-2001. Passed 2-27-01.)

(j) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

(k) Authority to Contract for Central Collection Facilities. The Mayor is hereby authorized to enter into an agreement on behalf of the City with any other municipal corporation, to act as agent 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.

(l) Assignment of Duties and Authority of the Administrator. In the event the Mayor, on behalf of the City, enters into an agreement with any other municipal corporation to permit such other municipal corporation to act as agent for the purpose of administering the income tax laws of the City of Twinsburg and of providing a central facility for the collection of the income tax, as provided in subsection (k) hereof, 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. 85-1967. Passed 12-12-67; Ord. 84-1977. Passed 6-14-77.)

181.12 BOARD OF REVIEW.

(a) Established. A Board of Review, consisting of three resident adult electors, shall be appointed by the Mayor, and shall be confirmed by a majority of Council considering such appointments. The Board shall elect one of its members to serve as Chairman, one as Vice-Chairman and one as Secretary. The Board shall be governed by "Robert's Rules of Order, Revised" except as it shall otherwise adopt its own procedural rules. The Board shall keep a record of its proceedings. Original appointments to the Board shall be staggered in terms of one, two and three years respectively, and thereafter the regular term of appointment as they become due shall be for three years. Payment for members shall be in accordance with legislation heretobefore or hereinafter adopted by Council.

(b) 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 effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Right of Appeal. 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 of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof.

(Ord. 85-1967. Passed 12-12-67.)

181.13 SEPARABILITY AND DURATION.

(a) 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 other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(b) Collection of Tax After Termination of This Chapter.

(1) 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 have been fully terminated, subject to the limitations contained in Sections 181.08 and 181.99.

(2) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in subsections 181.06(a) and 181.07(b) of this chapter as though the same were continuing. (Ord. 85-1967. Passed 12-12-67.)

181.14 INTEREST AND PENALTIES ON UNPAID TAX.

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

(b) Penalties. In addition to interest as provided in subsection (a) hereof, a penalty of twenty-five dollars (\$25.00) for each incident of nonpayment and/or for each incident of failing to file timely Municipal Income Tax Returns, and penalties based on any unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due other than taxes withheld: one-half percent (.5%) per month or fraction thereof.

(2) For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof.

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

(d) Abatement. Upon recommendation of the Administrator, the Board of Review may abate penalties or interest, or both, or upon appeal from the refusal or the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalties or interest, or both, for good cause shown. (Ord. 173-1996. Passed 11-26-96.)

181.15 VIOLATIONS.

(a) No person shall:

(1) Fail, neglect or refuse to make any return or declaration required by this chapter;

(2) Make any incomplete, false or fraudulent return;

(3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;

(4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator;

(5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;

(6) Fail to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator;

(7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;

(8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;

(9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;

(10) Fail to use ordinary diligence in maintaining proper records of employees' addresses, total wages paid and City tax withheld, or to knowingly give the Administrator false information; or

(11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(12) If acting as a landlord or rental agent, fail, neglect or refuse to submit a timely tenant listing to the Administrator.
(Ord. 38-2004. Passed 4-27-04.)

(b) All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.06 from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time which prosecution must be commenced shall be the time specified in Ohio R.C. 718.06 from the date the return was due or the date the false or fraudulent return was filed.

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

(d) Personal Liability of Officers and Employees. The officer or employee having control or supervision of or charged with the responsibility of filing any return or declaration required by this chapter and making payment, or any officer of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge a responsible officer's or employees liability for a failure of the corporation to file returns or declarations or pay tax or employer withholding due.

(e) Abatement. For good cause shown, the Tax Administrator may decline to impose penalty and or interest and excuse penalty and or interest previously imposed, resulting from excusable neglect and not the result of any fraudulent act.

(Ord. 145-2000. Passed 10-24-00.)

181.99 PENALTY.

(a) Whoever violates any of the provisions of Section 181.15, or any other provision of this chapter for which no penalty is otherwise provided, shall be guilty of a misdemeanor of the first degree subject to a fine of not more than one thousand dollars (\$1,000), or imprisonment of not more than six months, or both. Each instance of failure to timely file complete and true returns or declarations; pay taxes, penalties or interest imposed; or withhold taxes from employees or remit such withholdings to the Administrator shall constitute a separate offense. In the event the offending party is an organization, as defined in Section 501.11 of the General Offenses Code, both the organization and its president, partners or sole proprietor may be prosecuted for the violations or offenses.

(Ord. 91-1984. Passed 12-4-84.)

(b) Whoever violates Section 181.11(i) shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates Section 181.11(i) shall be guilty of an offense punishable by immediate dismissal. (Ord. 85-1967. Passed 12-12-67.)