

**CHAPTER 193**  
**Municipal Income Tax**

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#### CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XII, Sec. 8
- Duties of Finance Director - see CHTR. Art. V, Sec. 3
- Limitation on rate of taxation - see CHTR. Art. VIII, Sec. 5
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718

#### **193.01 PURPOSE OF LEVY OF INCOME TAX.**

To provide funds for the purposes of general municipal functions of the City, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.

(Ord. 2005-60. Passed 6-6-05.)

#### **193.02 DEFINITIONS.**

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

- (a) “Administrator” means the individual appointed by the Mayor to administer and enforce the provisions of the City income tax. The Administrator shall be under the direct supervision of the Finance Director.
- (b) “Board of Review” means the Board created by and constituted as provided in Section 193.49.
- (c) “Business” means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual,

pass-through entity, corporation or any other entity, excluding, however, any nonprofit corporation to the extent that its income is exempt from the payment of Federal income tax. "Business" conducted within the City includes the direct or indirect ownership of an interest in a pass-through entity that conducts business within the City.

- (d) "City" means the City of Beachwood, Ohio.
- (e) "Compensation" means all salaries, wages, commissions and other remuneration for work done or services performed. For taxable years beginning on or after January 1, 2005, "compensation" of an employee means "qualifying wages," within the meaning of Ohio Revised Code section 718.03, including any amendments or successor provisions thereto.
- (f) "Corporation" means a corporation, S 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, or any unincorporated entity treated as a corporation for Federal income tax purposes. The term "corporation" does not include a limited liability company that is treated as a partnership for Federal income tax purposes. For taxable years beginning on or after January 1, 2005, "corporation" includes a "combined company," an "electric company" and a "telephone company," all as defined in Ohio Revised Code section 5727.01, including any amendments or successor provisions thereto.
- (g) "Deferred compensation" means earned compensation the receipt of which is delayed to a later date.
- (h) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (i) "Employee" means one who works for compensation in the service of an employer.
- (j) "Employer" means a person, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a compensation basis.
- (k) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (l) "Gross receipts" means the total income from any source whatever.
- (m) "Intangible income" means that income specified in Ohio Revised Code Section 718.01(A)(5), including any amendments or successor provisions thereto, and includes of any of the following types of income: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, including any amendments or successor provisions thereto, and patents, copyrights, trademarks, trade names, investments in real estate

investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. “Intangible income” does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

- (n) “Internal Revenue Code” means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (o) “Limited liability company” means a limited liability company formed under Ohio Revised Code Chapter 1705, including any amendments or successor provisions thereto, or under the laws of any other state.
- (p) “Net operating loss” means the negative adjusted Federal taxable income recognized by a taxpayer from the operation of a business for the taxable year.
- (q) “Net profits” means, in the case of a corporation, the corporation’s Federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
  - (1) Deduct intangible income to the extent included in Federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
  - (2) Add an amount equal to five percent of intangible income deducted under Section 193.02(q)(1), but exclude that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.
  - (3) Add any losses allowed as a deduction in the computation of Federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
  - (4) Deduct income and gain included in Federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code. This deduction does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
  - (5) Add taxes on or measured by net income allowed as a deduction in the computation of Federal taxable income.
  - (6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors allowed as a deduction in the computation of Federal taxable income.
    - A. “Net profits” of a pass-through entity shall be computed as if the pass-through entity were a corporation, except:
      - 1. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member or former

- member shall not be allowed as a deductible expense; and
2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the pass-through entity, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.
- B. “Net profits” means, in the case of a sole proprietorship, the profit shown by the individual on Internal Revenue Service Schedule C, Schedule E, and/or Schedule F. “Net profits” shall be determined in accordance with:
1. The accounting method used by the taxpayer for Federal income tax purposes and
  2. The Internal Revenue Code, Treasury Regulations, Federal case law interpreting these authorities and administrative authorities promulgated by the Internal Revenue Service.
- (r) “Nonqualified deferred compensation plan” means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (s) “Nonresident” means an individual domiciled outside the City.
- (t) “Nonresident owner” means an individual domiciled outside the City who has a direct or indirect ownership interest in a pass-through entity that conducts business in the City and a corporation that has a direct or indirect ownership interest in a pass-through entity that conducts business in the City.
- (u) “Owner” means an individual, partner, member, or any other person having an ownership interest in a pass-through entity.
- (v) “Pass-through entity” means a partnership, a limited liability company that is treated as a partnership for Federal income tax purposes, a trust, an estate, or any other class of entity, excluding S corporations, the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (w) “Person” means every natural person, pass-through entity, fiduciary or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person”, as applied to any pass-through entity, shall mean the owners thereof, and as applied to corporations, the officers thereof.
- (x) “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.
- (y) “Qualifying wages” means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code, including any amendments or successor provisions thereto, to:

- (1) Deduct any amount included in such wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code (i.e., a cafeteria plan),
- (2) Add any amount not included in such wages for the taxable year solely because the employee was employed by the employer prior to April 1, 1986,
- (3) Add any amount not included in such wages if the amount is an employee contribution or deferral described in Section 401(k) or 457 of the Internal Revenue Code, and
- (4) Add any amount that constitutes supplemental unemployment compensation benefits described in Section 3402(a)(2) of the Internal Revenue Code and that was not included in such wages.

Qualifying wages includes compensation attributable to a nonqualified deferred compensation plan or program described in Section 3121(v)(2)(C) of the Internal Revenue Code and compensation from employment arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased under a stock option. Qualifying wages does not include compensation deferred before January 1, 2004, to the extent that such deferred compensation would not be treated as wages within the meaning of Section 3121(a) of the Internal Revenue Code at the time such deferred compensation is paid or distributed.

- (z) “Resident” means an individual domiciled in the City.
- (aa) “Resident owner” means an individual domiciled in the City who has an ownership interest in a pass-through entity.
- (bb) “S corporation” means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (cc) “Taxable income” means the income specified in Section 193.03 as subject to the tax imposed under this chapter.
- (dd) “Taxable year” means the calendar year or the fiscal year upon the basis of which the net profits and other taxable income 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. The taxable year of an individual shall be the calendar year, unless the individual has received approval for and uses a different taxable year for Federal income tax purposes.
- (ee) “Taxing municipality” means any municipal corporation, other than the City, that levies a municipal income tax on compensation earned by individuals and on the net profits earned from the operation of a business.
- (ff) “Taxpayer” means a person required hereunder to file a return or pay tax pursuant to this chapter. “Taxpayer” does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for Federal income tax purposes, but “taxpayer” includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(Ord. 2005-60. Passed 6-6-05.)

**193.03 RATE AND INCOME TAXABLE.**

Subject to the provisions of Section 193.35, an annual tax for the purposes specified in Section 193.01 hereof shall be imposed on and after January 1, 2011, at the rate of two percent per annum upon the following:

- (a) On all compensation and on net profits from the operation of a business earned during the effective period of this chapter by a resident.
- (b) On all qualifying wages earned or received by a nonresident for work done or services performed or rendered in the City, and on net profits earned or received by a nonresident from the operation or conduct of business in the City. Where a nonresident is employed at a place of business in the City, the qualifying wages of such nonresident for the performance of employee services will be treated as earned outside the City only for those services which of necessity, as distinguished from convenience, obligate such nonresident to duties outside the City in the service of the nonresident's employer.
- (c) On a resident owner's distributive share of the net profits of a pass-through entity earned during the effective period of this chapter from business conducted by the pass-through entity regardless of where such business is conducted, subject to the relief and reciprocity provisions of Section 193.35.
- (d) On a nonresident owner's distributive share of the net profits of a pass-through entity attributable to the City and earned during the effective period of this chapter from business conducted in the City, whether or not such pass-through entity has an office or place of business in the City.
- (e) On the portion attributable to the City of the net profits earned during the effective period of this chapter of a corporation derived from business conducted in the City, whether or not such corporation has an office or place of business in the City. The tax imposed by this Section 193.03(e) on the net profits of an electric company, combined company, or telephone company shall be subject to, and shall accord with, Ohio Revised Code Chapter 5745, including any amendments or successor provisions thereto.
- (f) On all income derived or received from prizes, awards, gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, on and after February 1, 2004, by residents of the City. Income derived or received from gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, shall not be taxed as business income unless the individual subject to the tax has a federal gambler's permit effective during the tax year in which the income from such activities is received.
- (g) On all income derived or received from prizes, awards, gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, on and after February 1, 2004, by nonresidents of the City for lottery tickets purchased, or participation in gaming, wagering, schemes of chance, or lotteries conducted,

within the City. Income earned or derived from gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, shall not be taxed as business income unless the individual subject to the tax has a federal gambler's permit effective during the tax year in which the income from such activities is received.

- (h) Deductions of Employee Business Expenses. If a taxpayer's taxable income for a taxable year includes income against which the taxpayer has taken a deduction for Federal income tax purposes reported on Form 2106 and attached to the taxpayer's Federal income tax return filed for that taxable year, the taxpayer may be allowed to determine his or her taxable income to the City by deducting the same amount deducted for Federal income tax purposes. If the taxpayer claims such a deduction, the taxpayer shall attach to his or her City income tax return a copy of Form 2106 and Schedule A as filed with the taxpayer's Federal income tax return for that taxable year. The total of such expenses deducted pursuant to this Section 193.03(g) cannot exceed the employee's related W-2 wage income from the same employer.
- (i) The City income tax imposed by Section 193.03(d) shall be collected and remitted pursuant to Section 193.17(l).  
(Ord. 2010-101. Passed 7-27-10.)

#### **193.04 EFFECTIVE PERIOD.**

The tax imposed by this chapter shall be levied, collected and paid with respect to all taxable income earned or received on and after July 1, 1968, except as otherwise provided in this chapter.

(Ord. 2005-60. Passed 6-6-05.)

#### **193.05 METHOD OF DETERMINATION.**

The portion of the net profits attributable to the City of a taxpayer conducting business both within and without the boundaries of the City shall be determined as provided in Ohio Revised Code Section 718.02, including any amendments or successor provisions thereto, and in accordance with rules and regulations adopted by the Administrator pursuant to this chapter. Pursuant to Ohio Revised Code Section 718.02, net profits from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City in the same proportion as the average ratio of:

- (a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business in the City during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business during the same period, wherever situated. Real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (b) Wages, salaries, and other taxable income paid during the taxable period to

persons employed in the business for services performed in the City (including all qualifying wages subject to tax under Section 193.03(b)) to wages, salaries, and other taxable income paid during the same period to persons employed in the business, wherever their services are performed, excluding compensation that is not taxable by the City under Ohio Revised Code Section 718.011 and Section 193.10(k) of this chapter.

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

In the event an equitable result cannot be obtained under the apportionment formula provided for in this Section 193.05, the Administrator shall have the authority to substitute other factors or methods of apportionment calculated to produce an equitable result.

(Ord. 2005-60. Passed 6-6-05.)

### **193.06 SALES MADE IN THE CITY.**

As used in subsection (c) of Section 193.05, “sales made in the City” means:

- (a) All sales of tangible personal property which is delivered within the City, regardless of where title passes, if shipped or delivered from a stock of goods within the City.
- (b) All sales of tangible personal property which is delivered within the City, regardless of where title passes, even though transported from a point outside the City, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord. 2005-60. Passed 6-6-05.)

### **193.07 TOTAL ALLOCATION.**

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 193.05 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 Section 193.05.

A factor is applicable even though it may be allocable entirely in or outside the City.

(Ord. 2005-60. Passed 6-6-05.)

### **193.08 RENTALS.**

Rental income received by a taxpayer shall be included in the computation of net profits 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. Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) 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 two hundred fifty dollars (\$250.00) 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 two hundred fifty dollars (\$250.00) per month; and provided, further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month. (Ord. 2005-60. Passed 6-6-05.)

#### **193.09 OPERATING LOSS-CARRY FORWARD.**

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 4, 1967, allocable to the City may be applied against the portion of the net profit of the taxpayer for succeeding tax years allocable to the City until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(c) Net operating losses may not be combined with qualifying wages.

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

(Ord. 2005-60. Passed 6-6-05.)

#### **193.10 SOURCES OF INCOME NOT TAXED.**

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

(a) Pay or allowance 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 the 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 any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property, except as defined in the computation of “net profits” under Section 193.02(q). Intangible property includes, but is not limited to, investments, deposits, money or credits, as those terms are defined in Ohio Revised Code Chapter 5701, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.
- (i) Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio 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) 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.
- (k) Pursuant to Ohio Revised Code Section 718.011, compensation paid to a nonresident individual for personal services performed by the individual in the City on 12 or fewer days in a calendar year, unless:
  - (1) The individual is an employee of another person, such individual’s employer has its principal place of business in another taxing municipality in Ohio, and such individual is not liable to the other taxing municipality for tax on the compensation paid for the services performed in the City; or
  - (2) The individual receives such compensation as a professional entertainer or professional athlete, the promoter of a professional entertainment of sporting event, or an employee of such a promoter.
- (l) Items excluded from Federal gross income pursuant to Section 107 of the Internal Revenue Code.
- (m) Compensation, net profits and other items of income, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (n) Compensation, net profits and other items of income, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General

Assembly limiting the power of the City to impose net income taxes.

- (o) Generally the above noted items in this Section 193.10 are the only forms of income not subject to the tax imposed by this chapter. Any other income, economic benefit or other form of compensation earned or received by a taxpayer shall be subject to the tax imposed by this chapter.  
(Ord. 2005-60. Passed 6-6-05.)

### **193.11 WHEN RETURN REQUIRED TO BE MADE.**

Each taxpayer having income subject to tax under this chapter shall, whether or not a tax be due thereon, make and file a return on or before the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year. All taxpayers who owe City income tax must file a City income tax return regardless of whether their entire City income tax obligation has been withheld and paid by their respective employers or by a pass-through entity; provided, however, that the return of an employer or employers that shows the amount of City income tax deducted by the employer or employers from the compensation of a nonresident employee and paid by the employer or employers to the Administrator shall be accepted as the City income tax return required of any such employee whose sole income subject to City income tax consists of such compensation.

(Ord. 2005-60. Passed 6-6-05.)

### **193.12 FORM AND CONTENT OF RETURN.**

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator, or on any form that comports with Ohio Revised Code Section 718.05(C), including any amendments or successor provisions thereto, setting forth:

- (a) The aggregate amounts of compensation and other taxable income earned or received by the taxpayer, and/or the gross income from the taxpayer's operation of a business less allowable expenses incurred in the acquisition of such gross income earned during the taxpayer's taxable year and subject to City income tax;
- (b) The amount of tax imposed by this chapter on such compensation, net profits and other taxable income;
- (c) Any credits to which the taxpayer may be entitled under the provisions of Sections 193.17, 193.21 and 193.35; and
- (d) Such other pertinent statements, returns or other information as the Administrator may require.

(Ord. 2005-60. Passed 6-6-05.)

### **193.13 EXTENSION OF TIME FOR FILING RETURNS.**

(a) Any taxpayer that has requested an extension for filing a Federal income tax return may request an extension for the filing of the City income tax return for the same taxable year by filing a copy of the taxpayer's Federal extension request for such taxable year with the Administrator. Any taxpayer not required to file a Federal income tax return may make a written

request for an extension to file a City income tax return. The request for extension must be filed on or before the original due date for the City income tax return, as set forth in Section 193.11. If the request is granted, the extended due date of the City income tax return shall be the last day of the month following the month to which the due date of the taxpayer's Federal income tax return for the same taxable year has been extended. 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 Revised Code Section 718.051(B), including any amendments or successor provisions thereto, 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 193.16.

(b) The Administrator may deny a taxpayer's request for an extension of the due date to file the City income tax return if the taxpayer:

- (1) Fails to timely file the request;
- (2) Fails to file a copy of the Federal extension request, if applicable;
- (3) Owes the City any delinquent income tax, penalty, interest 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.

(c) The granting of an extension of the due date for filing a City income tax return does not extend the due date as provided in Sections 193.11 and 193.16 for payment of the tax; hence, penalty and interest may apply to any unpaid City income tax during the period of extension at the rate set out by Sections 193.24 and 193.25. No penalty shall be assessed in those cases in which the City income tax return is filed and the final tax paid within the extended period for filing such return provided all other filing and payment requirements of this chapter have been met. The Administrator shall grant any extension of the due date for filing the City income tax return upon the condition that all City income tax declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that such declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension of the due date for filing the City income tax return had been granted.

(Ord. 2005-60. Passed 6-6-05.)

#### **193.14 CONSOLIDATED RETURNS.**

(a) 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 Internal Revenue Code. Only corporations subject to the tax imposed by this chapter may be included in such consolidated City income tax return. If an affiliated group of

corporations subject to the tax imposed by this chapter files a consolidated return in accordance with this Section 193.14(a) for any taxable year, 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 year.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.  
(Ord. 2005-60. Passed 6-6-05.)

#### **193.15 AMENDED RETURNS.**

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 193.31, 193.32, 193.33 and 193.35. Such amended return 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.

(b) Subject to the limitation on the period for assessment of City income tax and claims for refund thereof prescribed by Ohio Revised Code Section 718.12, including any amendments or successor provisions thereto, within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City income tax 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. 2005-60. Passed 6-6-05.)

#### **193.16 PAYMENT OF TAX ON FILING OF RETURN.**

(a) The taxpayer making a City income tax return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 193.17, or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 193.21, or whether an income tax has been paid on the same income to a taxing municipality, credit for the amount so deducted or paid, or credit to the

extent provided for in Section 193.35, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such City income tax return.

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

(Ord. 2005-60. Passed 6-6-05.)

### **193.17 COLLECTION AT SOURCE.**

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct at the time of the payment of compensation City income tax at the rate set forth in Section 193.03 from such compensation and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsections (c), (d) and (e) hereof. Such returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to 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.

(c) Such employer who deducts City income tax in an amount of one hundred dollars (\$100.00) or more in the first or second month of a calendar quarter shall, on or before the twentieth day of the following month, pay to the Administrator the amount of taxes so deducted.

(d) Notwithstanding anything in subsection (c) hereof to the contrary, such employer who makes payments described in subsection (c) on a monthly basis for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of City income tax withheld.

(e) Such payments of City income tax withheld from the compensation of employees shall be on a form or forms furnished by or obtainable from the Administrator upon request, setting forth the amount of tax deducted for the month.

(f) For taxable years beginning on or after January 1, 2007, any employer subject to this Section 193.17 may use the Ohio business gateway both to report the amount of City income tax withheld from compensation and to remit such amounts.

(g) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(h) An employee is not relieved from liability for City income tax by the failure of the employer to withhold the tax as required by this Section 193.17 or by the employer's exemption from the requirement to withhold City income tax.

(i) The failure of an employer to remit the City income tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the City income tax withheld.

(j) On or before each January 31, each employer subject to the provisions of this Section 193.17 shall file with the Administrator an information return for each employee from whom City income tax has been or should have been withheld, 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 such employee and shall provide a copy of such information return to the employee.

(k) On or before each January 31, any person, business or other entity who contracts or otherwise engages another person, business or other entity to perform services or conduct business activities in the City 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, 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, business or other entity.

(l) Except as otherwise provided in this Section 193.17(l):

(1) A pass-through entity that conducts business within the City and that has a nonresident owner must:

A. Withhold City income tax at the rate specified in Section 193.03 on the nonresident owner's distributive share of the pass-through entity's net profits attributable to the City; and

B. Remit such tax to the City by the applicable dates provided in Sections 193.19 and 193.21.

A pass-through entity subject to this Section 193.17(l) that fails to collect or remit City income tax as provided in this Section 193.17(l) shall be liable for the tax that it should have withheld or remitted and shall be subject to the interest and penalty provisions of Sections 193.24 and 193.25. The nonresident owner shall receive a credit against its City income tax liability in the amount of City income tax so withheld by the

pass-through entity. All claims for refund of City income tax withheld by a pass-through entity pursuant to this Section 193.17(l) must be made by the nonresident owner within the period set forth in Section 193.32.

- (2) A pass-through entity is not required to withhold and remit City income tax to the extent that its nonresident owners both:
  - A. File City income tax returns and declarations as provided in Sections 193.11, 193.19 and 193.21, respectively, that report their distributive shares of the pass-through entity's net profits attributable to the City; and
  - B. Pay City income tax thereon.

(m) The officer, employee or owner having control or supervision of, or charged with the responsibility of filing, any return or declaration required by this chapter and making payment of City income tax, or any officer of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for the failure of the business either to file any return or declaration or to pay, withhold or remit City income tax. The dissolution, termination or bankruptcy of a corporation or pass-through entity does not discharge the liability of a responsible officer, employee or owner for a failure of the corporation or pass-through entity to file City income tax returns or declarations or to pay, withhold or remit City income tax.

(Ord. 2005-60. Passed 6-6-05.)

### **193.18 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.**

Every person who anticipates any taxable income which is not subject to Section 193.17, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 193.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City in accordance with Section 193.17, such person need not file a declaration. For taxable years beginning on or after January 1, 2005, declarations of estimated net profits from any business conducted within the City and payment of estimated City income tax thereon may be made by using the Ohio business gateway, as described in Ohio Revised Code Section 718.051, including any amendments or successor provisions thereto.

(Ord. 2005-60. Passed 6-6-05.)

### **193.19 FILING OF DECLARATION.**

(a) The declaration required by Section 193.18 shall be filed on or before April 30 of each year during the effective period set forth in Section 193.04 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers having a taxable year other than the calendar year shall file the declaration required by Section 193.18 on or before the fifteenth day of the fourth month after the start of each fiscal year or period.

(Ord. 2005-60. Passed 6-6-05.)

**193.20 FORM OF DECLARATION.**

(a) The declaration required by Section 193.18 shall be filed upon a form furnished by or obtainable from the Administrator or on a generic form prescribed by Ohio Revised Code Section 718.05, including any amendments or successor provisions thereto; provided, however, credit shall be taken for City income tax to be withheld from any portion of such income reported on the declaration. In accordance with the provisions of Section 193.35, credit may be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) 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. 2005-60. Passed 6-6-05.)

**193.21 PAYMENT TO ACCOMPANY DECLARATION.**

(a) Such declaration of estimated tax for a taxable year that is a calendar year shall be accompanied by payment of at least twenty-two and one-half percent of the estimated annual tax and, in the case of individuals, at least a similar amount must be paid on or before July 31 and October 31 of that taxable year and January 31 of the subsequent taxable year. A calendar year taxpayer having net profits subject to City income tax must file the declaration of estimated tax by April 15 and pay at least twenty-two and one-half percent of the estimated annual tax by that date, and at least a similar amount must be paid by June 15, September 15 and December 15 of such taxpayer's taxable year. The declaration of estimated tax for a taxable year that is a fiscal year shall be accompanied by payment of at least twenty-two and one-half percent of the estimated annual tax, and at least a similar amount must be paid by the fifteenth day of the sixth, ninth and twelfth months of the fiscal year. The estimate may be amended at any time prior to the due date of the taxpayer's annual City income tax return for the taxable year for which the estimated payments are made. The annual City income tax return must be filed and any balance of City income tax that may be due must be paid on or before the due date set forth in Section 193.11. If the taxpayer has paid more than the amount of tax to which the City is entitled, a refund of the amount so overpaid shall be made or the same may be applied toward the declaration of tax due for the ensuing taxable year. Claims for refunds shall be made on forms prescribed or approved by the Administrator and within the time provided in Section 193.32.

(b) An amended declaration must be filed on or before January 31 of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation of the Administrator, if it appears that the original declaration made for the preceding taxable year underestimated the taxpayer's income by ten percent (10%) or more. At such time a payment that, together with prior payment is sufficient to pay taxpayer's entire estimated liability, shall be made. If upon the filing of the annual City income tax return required by Section 193.11 hereof, it appears that the taxpayer did not pay at least ninety percent (90%) of the City income tax liability shown on such return on or before January 31 or the date fixed by regulation, whichever is applicable, the difference between ninety percent (90%) of the

taxpayer's City income tax liability and the amount of estimated tax actually paid on or before January 31 or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Sections 193.24 and 193.25. However, the interest and penalty provision of Sections 193.24 and 193.25 shall not apply where either:

- (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 on a timely basis an amount of estimated City income tax at least equal to one hundred percent (100%) of the taxpayer's City income tax liability for the preceding taxable year, provided that the return for the preceding taxable year reflected a 12-month period and the taxpayer filed a City income tax return for the preceding taxable year.

(Ord. 2005-60. Passed 6-6-05.)

### **193.22 ANNUAL RETURN.**

On or before the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance of City income tax that may be due shall be paid therewith in accordance with the provisions of Section 193.16.

(Ord. 2005-60. Passed 6-6-05.)

### **193.23 EXTENSIONS.**

Except as otherwise provided in Section 193.13, the Administrator may extend the time of filing any return, making any payment or performing any other act required by this chapter for a period not to exceed six months beyond the original due date.

(Ord. 2005-60. Passed 6-6-05.)

### **193.24 INTEREST ON UNPAID TAX**

All taxes imposed and all moneys withheld or required to be withheld by employers or pass-through entities under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent per month or fraction thereof, but not to exceed twenty-five percent.

(Ord. 2005-60. Passed 6-6-05.)

### **193.25 PENALTIES ON UNPAID TAX.**

(a) In addition to interest as provided in Section 193.24, penalties based on unpaid City income tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld from employees - one percent per month or fraction thereof;
- (2) For failure to remit taxes withheld from employees - three percent per month or fraction thereof.

(b) The minimum penalty assessed under this section shall be ten dollars (\$10.00).

(Ord. 2005-60. Passed 6-6-05.)

### **193.26 EXCEPTIONS.**

A penalty shall not be assessed or 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, subject to the limitation on the period for assessment of City income tax prescribed by Ohio Revised Code Section 718.12, including any amendments or successor provisions thereto, an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

(Ord. 2005-60. Passed 6-6-05.)

### **193.27 ABATEMENT OF INTEREST AND PENALTY.**

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

(Ord. 2005-60. Passed 6-6-05.)

### **193.28 VIOLATIONS.**

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (b) Make any incomplete, false or fraudulent return; or
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) 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; or
- (f) Fail to appear before the Administrator and produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (i) 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; or
- (j) Fail to use ordinary diligence in maintaining proper records of employees'

residence addresses; total wages paid and City tax withheld, or to knowingly give the Administrator false information; or

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

(Ord. 2005-60. Passed 6-6-05.)

### **193.29 LIMITATION ON PROSECUTION.**

All prosecutions under this section must be commenced within three years from the time of the offense complained of; provided, however, that prosecutions for:

- (a) Failure to file a return,
- (b) Filing a false or fraudulent return or
- (c) The omission of twenty-five percent or more of income required to be reported must be commenced within six years from the date of the commission of the offense.

(Ord. 2005-60. Passed 6-6-05.)

### **193.30 FAILURE TO PROCURE FORMS NOT EXCUSE.**

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

(Ord. 2005-60. Passed 6-6-05.)

### **193.31 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. An additional assessment of City income tax, interest and/or penalty shall not be made after three years from the time the tax was due or the return filed, whichever is later.

(Ord. 2005-60. Passed 6-6-05.)

### **193.32 REFUNDS OF TAXES ERRONEOUSLY PAID.**

City income tax erroneously paid shall not be refunded unless a claim for refund is made within three years from the date the tax was due or the return filed, whichever is later.

(Ord. 2005-60. Passed 6-6-05.)

### **193.33 AMOUNTS OF LESS THAN ONE DOLLAR.**

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 2005-60. Passed 6-6-05.)

### **193.34 NONRESIDENT TAXPAYERS.**

(EDITOR'S NOTE: The provisions of Section 193.34 were repealed by Ordinance 1971-127, passed December 13, 1971.)

### **193.35 CITY RESIDENT SUBJECT TO INCOME TAX IN OTHER**

## **MUNICIPALITY.**

(a) When a resident is subject to and has paid a municipal income tax in another taxing municipality on the same income taxable under this chapter, a credit shall be allowed against City income tax for the amount of tax for which such taxpayer is liable under the ordinance of such other taxing municipality. Until further amendment of this section by Council, the credit allowed by this subsection (a) shall not exceed the City income tax imposed on income that is also subject to tax in another taxing municipality, which will result in no minimum tax due to the City on such income where the other taxing municipality imposes tax at a rate equal to or greater than the City income tax rate set forth in Section 193.03.

(b) In the event that any resident fails, neglects or refuses to file a tax return or form as is prescribed by the Administrator, and to timely pay all taxes due, such taxpayer shall not be entitled to a credit under subsection (a) hereof, and shall be in violation of this chapter.

(c) A resident 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 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 municipal corporation in the State of Ohio; or
- (2) The resident owner's proportionate share of the amount of tax that would be imposed on the pass-through entity by the City if the pass-through entity conducted business in the City.

In no case shall the credit authorized by this subsection (c) exceed the City income tax assessed under this chapter on such income.

(d) Where applicable, the credits provided by Ohio Revised Code Sections 718.021 and 718.121 shall be available to residents.

(e) Nonresidents. Except as provided in Section 193.17(l) and in Ohio Revised Code Sections 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 in which the nonresident resides, such nonresident 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.

(f) The credits provided for in this Section 193.35 apply only to individuals and do not apply to corporations or pass-through entities.  
(Ord. 2005-60. Passed 6-6-05.)

### **193.36 CLAIM FOR CREDIT.**

(EDITOR'S NOTE: The provisions of Section 193.36 were repealed by Ordinance 1971-127, passed December 13, 1971.)

**193.37 DISBURSEMENT OF FUNDS COLLECTED.**

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

- (a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter.
- (b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for Municipal purposes.  
(Ord. 2005-60. Passed 6-6-05.)

**193.38 DUTY TO RECEIVE TAX IMPOSED.**

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

(Ord. 2005-60. Passed 6-6-05.)

**193.39 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.

(Ord. 2005-60. Passed 6-6-05.)

**193.40 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.**

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

(Ord. 2005-60. Passed 6-6-05.)

**193.41 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 owed by him under this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 193.31 and 193.28 shall apply.

(Ord. 2005-60. Passed 6-6-05.)

**193.42 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.

(Ord. 2005-60. Passed 6-6-05.)

#### **193.43 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.

(Ord. 2005-60. Passed 6-6-05.)

#### **193.44 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.**

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

(Ord. 2005-60. Passed 6-6-05.)

#### **193.45 REFUSAL TO PRODUCE RECORDS.**

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons 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 hereby authorized shall be deemed a violation of this chapter under Section 193.28, punishable as provided in Section 193.54.

(Ord. 2005-60. Passed 6-6-05.)

#### **193.46 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.**

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information.

(Ord. 2005-60. Passed 6-6-05.)

**193.47 TAXPAYER REQUIRED TO RETAIN RECORDS.**

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 withholding taxes are paid.

(Ord. 2005-60. Passed 6-6-05.)

**193.48 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.**

(EDITOR'S NOTE: The provisions of Section 193.48 were repealed by Ordinance 1971-127, passed December 13, 1971.)

**193.49 BOARD OF REVIEW ESTABLISHED.**

A Board of Review, consisting of the Mayor, the Law Director and Auditor is hereby created. The Board shall select, each year for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio Revised Code Section 149.43, including any amendments or successor provisions thereto. Any hearing by the Board may be conducted privately and the provisions of Section 193.46 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal. Hearings requested by a taxpayer before the Board are not meetings of a public body that are subject to Ohio Revised Code Section 121.22, including any amendments or successor provisions thereto.

(Ord. 2005-60. Passed 6-6-05.)

**193.50 DUTY TO APPROVE REGULATIONS AND TO HEAR APPEALS.**

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

(Ord. 2005-60. Passed 6-6-05.)

**193.51 RIGHT OF APPEAL.**

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 thirty (30) days from the announcement of such ruling or decision by the Administrator, 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 must be in writing and must state why such ruling or decision is deemed incorrect or unlawful. The Board shall schedule any hearings and issue its decision within the periods and in the manner prescribed by Ohio Revised Code Section 718.11, including any amendments or successor provisions thereto. If the taxpayer does not waive a hearing before the Board, the taxpayer may appear before the Board and be represented as provided by law. All appeals of decisions of the Board of Review shall be made in accordance with Ohio Revised Code Sections 718.11 and 5717.011, including any amendments or successor provisions thereto.  
(Ord. 2005-60. Passed 6-6-05.)

### **193.52 DECLARATION OF LEGISLATIVE INTENT.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.  
(Ord. 2005-60. Passed 6-6-05.)

### **193.53 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 193.28 through 193.33.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 193.11 and 193.17 of this chapter as though the same were continuing.  
(Ord. 2005-60. Passed 6-6-05.)

### **193.54 PENALTY.**

(a) Whoever violates Section 193.28 shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates Section 193.46 shall be fined one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty for Section 193.46, any employee of the City who violates such section shall be guilty of an offense punishable by immediate dismissal.  
(Ord. 2005-60. Passed 6-6-05.)

