

CHAPTER 193
Earned Income Tax

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CROSS REFERENCES

Director of Finance - see CHTR. Art. IV, §4

Board of Tax Appeals - see CHTR. Art. IV, §13

Limitation on rate of taxation - see CHTR. Art. V, §3

Power to levy income tax - see Ohio Const. Art. XIII, §3

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

Assistant Director of Finance-Tax Administrator - see ADM. 145.07

193.01 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purpose 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. 1966-104. Passed 12-30-66.)

193.02 DEFINITIONS.

For the purposes of this chapter, the terms, phrases, words and their derivations shall have the meanings given in the next succeeding sections of this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 1966-104. Passed 12-30-66.)

193.03 ADMINISTRATOR.

"Administrator" means the Director of Finance or an Assistant Director of Finance who is designated to administer and enforce the provisions of this chapter.

(Ord. 1984-15. Passed 4-23-84.)

193.04 ASSOCIATION.

"Association" means any partnership, limited partnership, limited liability company, S corporation, or form of unincorporated enterprise, owned by one or more persons.

(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.05 BOARD OF REVIEW.

"Board of Review" means the Board of Tax Appeals created by Article IV, Section 13 of the City Charter and constituted as provided in Section 193.66.
(Ord. 1971-8. Passed 1-25-71.)

193.06 BUSINESS.

"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.
(Ord. 1966-104. Passed 12-30-66.)

193.07 CORPORATION.

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.
(Ord. 1966-104. Passed 12-30-66.)

193.08 EMPLOYEE.

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
(Ord. 1966-104. Passed 12-30-66.)

193.09 EMPLOYER.

"Employer" means an individual, partnership, association, corporation, government body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation.
(Ord. 1966-104. Passed 12-30-66.)

193.10 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
(Ord. 1966-104. Passed 12-30-66.)

193.11 GROSS RECEIPTS.

"Gross receipts" means the total income from any source.
(Ord. 1966-104. Passed 12-30-66.)

193.12 NET PROFITS.

(a) "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 either 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, State and other taxes based on income and, in the case of an association, without deduction of salaries paid to partners and other owners.

(b) "Net profits" for a taxpayer other than an individual means adjusted Federal taxable income, and "net profits" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 193.29, required to be reported on Schedule C, Schedule E, or Schedule F.

(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.13 NONRESIDENT.

"Nonresident" means an individual domiciled outside the City.

(Ord. 1966-104. Passed 12-30-66.)

193.14 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

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

(Ord. 1966-104. Passed 12-30-66.)

193.14.1 PASS-THROUGH ENTITY.

"Pass-through entity" means a partnership, S corporation, limited liability company or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(Ord. 2001-13. Passed 4-9-01.)

193.15 PERSON.

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

(Ord. 1966-104. Passed 12-30-66.)

193.16 PLACE OF BUSINESS.

"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.

(Ord. 1966-104. Passed 12-30-66.)

193.17 RESIDENT.

"Resident" means an individual domiciled in the City.

(Ord. 1966-104. Passed 12-30-66.)

193.18 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
(Ord. 1966-104. Passed 12-30-66.)

193.19 TAXABLE INCOME.

"Taxable income" means qualifying wages, salaries and other compensation paid by an employer before any deduction. "Other compensation" includes, but is not limited to, bonuses; commissions; incentive payments; director's fees; property in lieu of cash; tips; dismissal or severance pay; supplemental income benefits for early retirement regardless of their label; contest prizes and awards; compensation attributable to qualified and non-qualified deferred compensation plans or programs described in Section 3121(v)(2)(c) of the Internal Revenue Code; tax shelter plans; vacation and sick pay regardless of label, such as sick leave, disability, vacation pay, etc.; wage continuation plans; supplemental unemployment benefits; depreciation recapture; gifts and gratuities in connection with employment; fellowships, grants and stipends; group term life insurance protection over fifty thousand dollars (\$50,000) (taxed on the entire cost); benefits resulting from an employer's assumption of a tax; stock options, including compensation 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 given as compensation; income from gaming, wagering and lotteries, including the Ohio State Lottery; net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter; and all other compensation earned, received or accrued.
(Ord. 1983-48. Passed 11-28-83; Ord. 2004-36. Passed 12-13-04.)

193.20 TAXABLE YEAR.

"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.
(Ord. 1966-104. Passed 12-30-66.)

193.21 TAXPAYER.

"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. 1966-104. Passed 12-30-66.)

193.22 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 193.01 shall be imposed at the rate of two percent per year for the years prior to 2005 and three percent effective January 1, 2005, upon the following:

- (a) On all salaries, wages, commissions and other compensation earned by residents of the City;

- (b) On all salaries, wages, commissions and other compensation earned by nonresidents of the City for work done or services performed or rendered within the City;
- (c)
 - (1) On the portion attributable to the City of the net profits earned of all resident unincorporated business entities, pass-through entities or professions or other activities derived from sales made, work done, services performed or rendered and business or other activities conducted in the City;
 - (2) On the portion of the distributive share of the net profits earned of a resident partner or owner of a resident unincorporated business entity or pass-through entity not attributable to the City and not levied against such unincorporated business or pass-through entity;
- (d)
 - (1) On the portion attributable to the City of the net profits earned of all nonresident unincorporated business or pass-through 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 or pass-through entity has an office or place of business in the City;
 - (2) On the portion of the distributive share of the net profits earned of a resident partner or owner of a nonresident unincorporated business or pass-through entity not attributable to the City and not levied against such unincorporated business or pass-through entity;

(e) On the portion attributable to the City of the net profits earned 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; and

(f) On all taxable income of residents from gaming, wagering, lotteries, including the Ohio State Lottery, or schemes of chance which are not otherwise taxed as "net profits."

(g) For the purposes of this section a shareholder's distributive share of net profits of an S Corporation shall be taxed only to the extent such shares would be so allocated or apportioned to this State.

(Ord. 1986-41. Passed 8-11-86; Ord. 2000-30. Passed 6-26-00; Ord. 2001-13. Passed 4-9-01; Ord. 2004-36. Passed 12-13-04.)

193.23 EFFECTIVE PERIOD.

Such tax shall be imposed, 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 or after January 1, 2001.

(Ord. 1986-41. Passed 8-11-86; Ord. 2000-30. Passed 6-26-00.)

193.24 METHOD OF DETERMINATION OF APPORTIONMENT OF TAX.

In the taxation of income which is subject to City income taxes if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the City, shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the City, then only such portion shall be considered as having a taxable sites in the City for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business apportionment percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight as follows:

- (a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated;

As used in the preceding division, 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 compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed;
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

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

(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.25 SALES MADE IN THE CITY.

As used in division (c) of Section 193.24, "sales made in the City" means:

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

- (c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
(Ord. 1966-104. Passed 12-30-66.)

193.26 TOTAL APPORTIONMENT.

(a) Add together the percentages determined in accordance with divisions (a), (b) and (c) of Section 193.24 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 apportionment percentage referred to in Section 193.24.

(b) A factor is applicable even though it may be apportioned entirely in or outside the City.
(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.27 RENTALS.

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under divisions (c), (d) and (e) of Section 193.22, 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.

(b) Residents are required to file and report the status of all property located within and without the City. Nonresidents are required to file and report the status of all property within the City whether or not income is received. When the gross monthly rental of any and all real properties aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, the net income shall be subject to tax. City residents owning rental property located outside of the City are required to file the net profit or loss with the City and pay any tax due. 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 or she shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds such one hundred twenty-five dollars (\$125.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.
(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.28 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City, until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

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

(Ord. 1966-104. Passed 12-30-66.)

193.29 SOURCES OF INCOME NOT TAXED.

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

- (a) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
- (b) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits received from local, State and Federal governments, compensation for damages for personal injury and like reimbursements.
- (c) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (d) Gains from involuntary conversion, interest on Federal obligations and income of decedent's estate during the period of administration (except such income from the operation of a business).
- (e) Alimony.
- (f) Compensation for damage to property by way of insurance or otherwise.
- (g) Interest and dividends from intangible property.
- (h) Active military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard, as set forth in Ohio R.C. 718.01.
- (i) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio R.C. 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (j) Any association or organization falling in the category listed in the preceding division (i) of this section receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

- (k) In the event any association or organization receives taxable income as provided in division (j) of this section from real or personal property ownership or income-producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided in this chapter.
- (l) If exempt for Federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.
- (m) The rental value of a home furnished to a minister of the gospel as part of his or her compensation, or the rental allowance paid to a minister of the gospel as part of his or her compensation, to the extent used by him or her to rent or provide a home pursuant to section 107 of the Internal Revenue Code.
- (n) Compensation paid under Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- (o) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Ohio R.C. Chapter 306 for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (p) The Municipality shall not tax the compensation paid to a nonresident individual for personal service performed by the individual in the Municipality on 12 or fewer days in a calendar year unless one of the following applies:
 - (1) The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other Municipality for tax on the compensation paid for such services.
 - (2) The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
- (q)
 - (1) The income of a public utility, when that public utility is subject to the tax levied under Ohio R.C. 5727.24 or 5727.30, except a municipal corporation may tax the following, subject to Ohio R.C. Chapter 5745:
 - A. The income of an electric company or combined company;
 - B. The income of a telephone company.
 - (2) As used in division (q)(1) of this section "combined company", "electric company" and "telephone company" have the same meanings as in Ohio R.C. 5727.01.
- (r) Earnings and income in the City of all persons under 18 years of age, whether resident or nonresidents.

- (s) Salaries, wages, commissions and other compensation and not 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.
- (t) 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.
- (u) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.
(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.30 WHEN RETURN REQUIRED TO BE MADE.

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. When the return is made for a fiscal year or other period different from the calendar year, the return must be filed on or before the fifteenth day of the fourth month following the close of the fiscal year. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.31 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 such Administrator, setting forth:

- (a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, professional or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;
- (b) The amount of the tax imposed by this chapter on such earnings and profits; and
- (c) Such other pertinent statements, information returns or other information as the Administrator may require.

(Ord. 1966-104. Passed 12-30-66.)

193.32 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or the end of the month following the month of the granted Federal extension. An extension may not be granted

where any individual or business is in a delinquent status. The delinquent status shall include, but is not limited to, tax returns, reports or other related documents that have not been filed and/or payments that have not been paid.

(Ord. 1966-104. Passed 12-30-66; Ord. 2001-13. Passed 4-9-01; Ord. 2004-36. Passed 12-13-04.)

193.33 CONSOLIDATED RETURNS.

(a) On and after January 1, 2003, any municipal corporation that imposes a tax on the income or net profits of corporations shall accept for filing a consolidated income tax return from any affiliated group of corporations subject to the municipal corporation's tax if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 101 of the Internal Revenue Code.

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

(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.34 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 193.49, 193.50, 193.51, 193.52 and 193.53. 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) Within three months from the final determination of any Federal tax liability affecting the taxpayer's tax liability, such taxpayer shall make and file an amended return showing income subject to the 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. 1966-104. Passed 12-30-66.)

193.35 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 193.36, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 193.37, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his 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. 1986-23. Passed 5-12-86.)

193.36 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 a salary, wage, commission or other compensation, the tax of three percent, effective January 1, 2005, per year of the gross salary, wage, commission or other compensation due by the employer to the employee, and shall, on or before the last day of the month following the close of each calendar quarter, make a return and pay to the Administrator the amount of taxes so deducted, subject to divisions (c), (d) and (e) of this section. Such return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax has in fact been withheld. The officer or employee having control or supervision or who is charged with the responsibility of filing the return, including the power of making the payment, shall be personally liable for the failure to file the return and pay the tax due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability, for a prior failure of such business, to file a return and pay taxes due. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

(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 or her 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 the tax in an amount of two hundred fifty dollars (\$250.00) 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) Such employer who makes such payments 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 income tax withheld.

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

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

(Ord. 1985-5. Passed 3-11-85; Ord. 2001-13. Passed 4-9-01; Ord. 2004-36. Passed 12-13-04.)

193.37 DECLARATIONS OF INCOME.

(a) Every resident must file a declaration of estimated income.

(b) Every person who anticipates any taxable income which is not subject to Section 193.36 of this section, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 193.22 shall file a declaration setting forth such estimated income or the estimated profit or loss for such business activity together with the estimated tax due thereon.

(Ord. 1971-75. Passed 12-27-71.)

193.38 FILING OF DECLARATION.

(a) The declaration required by Section 193.37 shall be filed on or before April 15 of each year during the effective period set forth in Section 193.23 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) 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. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.39 FORM OF DECLARATION.

(a) The declaration required by Section 193.37 shall be filed upon a form furnished by, or obtainable from, the Administrator;

(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. 1986-23. Passed 5-12-86.)

193.40 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the fourth, seventh and tenth months of the year and the first month of the year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. If the total amount due is less than forty dollars (\$40.00), it may be paid in one lump sum. If the amount due is forty dollars (\$40.00) or more, payments must be made in quarterly installments.

(Ord. 1983-48. Passed 11-28-83.)

193.41 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid therewith in accordance with the provisions of Section 193.35.

(Ord. 1966-104. Passed 12-30-66.)

193.42 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of eighteen percent per year or fraction thereof.

(Ord. 1980-26. Passed 6-23-80.)

193.43 PENALTIES ON UNPAID TAX; FAILURE TO FILE.

In addition to interest as provided in Section 193.42, penalties based on the unpaid tax are hereby imposed as follows:

- (a) For failure to pay taxes due other than taxes withheld, ten percent per year or fraction thereof.
- (b) For failure to remit taxes withheld from employees, ten percent per month or fraction thereof.
- (c) For failure to file any return required under Section 193.30, ten percent of the taxes due, but in any event a minimum penalty of twenty-five dollars (\$25.00).
- (d) For the underpayment of estimated taxes as required by Sections 193.37, 193.38, 193.39 and 193.40, ten percent per year, figured at 0.833 percent per month for each month or fraction thereof that payment is delinquent. No penalty shall be assessed if the aggregate installment payments of estimated taxes are at least eighty percent of the actual tax due, with twenty-five percent of the eighty

percent paid each quarter or with an amount equal to the tax liability of the previous year paid on a quarterly basis. The penalty for underpaying estimated taxes is figured separately for each installment.

(Ord. 1983-48. Passed 11-28-83; Ord. 2004-36. Passed 12-13-04.)

193.44 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; 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.

(Ord. 1966-104. Passed 12-30-66.)

193.45 ABATEMENT OF INTEREST AND PENALTY.

The Tax Administrator, for good cause shown, may abate penalty or interest, or both, or the Board of Tax Appeals, upon an appeal from the refusal of the Administrator to abate the penalty or interest, may abate the penalty or interest, or both, for good cause shown.

(Ord. 1966-104. Passed 12-30-66; Ord. 2001-13. Passed 4-9-01.)

193.46 VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator;
- (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;
- (f) 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;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and the date thereof;

- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or knowingly give the Administrator false information;
- (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; or
- (l) Fail to fully and completely respond to a questionnaire from the Administrator pertaining to the collection of taxes and enforcement of the provisions of this chapter.
(Ord. 1978-35. Passed 9-11-78.)

193.47 LIMITATION ON PROSECUTION.

All prosecutions under this section must be commenced within the times stipulated in Ohio R.C. 718.12.

(Ord. 1971-75. Passed 12-27-71; Ord. 2001-13. Passed 4-9-01.)

193.48 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.

(Ord. 1966-104. Passed 12-30-66.)

193.49 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

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, or 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.

(Ord. 1966-104. Passed 12-30-66.)

193.50 REFUNDS OF TAXES ERRONEOUSLY PAID.

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

(Ord. 1966-104. Passed 12-30-66.)

193.51 AMOUNTS OF LESS THAN ONE DOLLAR.

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

(b) Overpayments of less than five dollars (\$5.00) shall not be refunded but shall be applied against liability in the subsequent year where it is evident that a liability will exist in the subsequent year.

(Ord. 1978-36. Passed 9-11-78.)

193.52 TAX CREDIT.

(a) When the taxable income of a resident of the City is subject to a municipal tax in another municipality or a Joint Economic Development District on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality equal to 100% taxable credit of a 2% limit of city income tax withheld or paid to other cities, including the taxes paid by a pass-through entity on behalf of the partners and/or shareholders.

(b) A claim for credit or refund under this section shall be made in such a manner as the Administrator may by regulation provide. If such City resident fails, neglects or refuses to file an annual return or declaration in the form prescribed by the Administrator, he or she shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

(Ord. 1986-41. Passed 8-11-86; Ord. 2001-13. Passed 4-9-01; Ord. 2004-36. Passed 12-13-04.)

193.53 CLAIM FOR CREDIT. (REPEALED)

(EDITOR'S NOTE: Section 193.53 was repealed by Ordinance 2001-13, passed April 9, 2001.)

193.54 DISBURSEMENT OF RECEIPTS OF TAX COLLECTION; DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under this chapter shall be deposited in the General Fund for Municipal functions, including, but not limited to, the City's portion of street improvements, maintaining adequate personnel strength in the Police Department, the Fire Department, emergency 911 program, and the administration of the City, new equipment, improvement of Municipal services and facilities and capital improvements of the City.

(Ord. 1986-41. Passed 8-11-86.)

193.55 DUTY OF THE ADMINISTRATOR 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. 1966-104. Passed 12-30-66.)

193.56 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. 1966-104. Passed 12-30-66.)

193.57 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. 1966-104. Passed 12-30-66.)

193.58 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 193.49 and 193.46 of this chapter shall apply.

(Ord. 1966-104. Passed 12-30-66.)

193.59 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 to 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. 1966-104. Passed 12-30-66.)

193.60 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. 1966-104. Passed 12-30-66.)

193.61 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 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. 1966-104. Passed 12-30-66.)

193.62 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 authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 193.46.

(Ord. 1966-104. Passed 12-30-66.)

193.63 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

(a) 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 a proper judicial order.

(b) No person shall divulge such information, except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the municipal corporation as authorized by this chapter or the charter or ordinance authorizing the levy. The Tax Administrator of the municipal corporation may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the Tax Commissioner.

(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.64 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.

(Ord. 1966-104. Passed 12-30-66.)

193.65 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

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

(Ord. 1966-104. Passed 12-30-66.)

193.66 BOARD OF TAX APPEALS.

(a) Membership. Pursuant to Article IV, Section 11, of the Charter of Parma Heights, adopted by the electors on November 4, 1969, there is hereby established a Board of Tax Appeals which shall consist of three electors of the City not holding any other municipal office or appointment who shall be appointed by the Mayor with the concurrence of a majority of the members of Council. The members shall take office as of the date of their appointment and qualification. The term of one member shall expire on December 31, 1970; the term of one member shall expire on December 31, 1971; and the term of one member shall expire on December 31, 1972. Thereafter, each member appointed to the Board shall be appointed for a term of three years in the manner herein provided at the expiration of the term of each member. A vacancy occurring during the term of any member of the Board shall be filled for the unexpired term in the manner herein provided. At least one member of the Board shall be an attorney authorized to practice law in the State.

(b) Jurisdiction. It shall be the duty of the Board of Tax Appeals to hear and decide all appeals from any ordinance, rule, regulation or administrative decision relating to any tax imposed by the City in conformity with the purpose and intent thereof. The Board shall act by a majority vote and a majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 193.63 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as they may be heard before the Board on appeal.

(Ord. 1971-8. Passed 1-25-71.)

193.67 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 Tax Appeals 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. 1966-104. Passed 12-30-66.)

193.68 RIGHT OF APPEAL.

(a) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Tax Appeals within 30 days from the announcement of such ruling or decision by the Administrator.

(b) The Board shall schedule a hearing within 45 five days after receiving the request, unless the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(c) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a final decision on the appeal within 90 days after the Board's final hearing on the appeal, and send a copy of its final decision by ordinary mail to all of the parties to the appeal within 15 days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in Ohio R.C. 5717.011.

(d) The Board shall adopt rules governing its procedure and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio R.C. 193.43. Hearings requested by a taxpayer before a board of appeal created pursuant to this section are not meetings of a public body subject to Ohio R.C. 121.22.

(e) Following an appeal to the Board of Appeals, a municipal income tax appeal may be made to either common pleas court or to the Ohio Board of Tax Appeals.
(Ord. 1966-104. Passed 12-30-66; Ord. 2004-36. Passed 12-13-04.)

193.69 SEVERABILITY.

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. 1966-104. Passed 12-30-66.)

193.70 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 193.49, 193.50, 193.51, 193.46, 193.47 and 193.48.

(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 193.30 and 193.36 as though the same were continuing. (Ord. 1966-104. Passed 12-30-66.)

193.71 FAILURE TO COLLECT AND PAY OVER TAX; ATTEMPT TO EVADE OR DEFEAT TAX.

Any person required to collect, truthfully account for and pay over tax imposed by Section 193.22 who willfully fails to collect such tax, or truthfully account for and pay over such tax, or willfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded, or not collected, or not accounted for and paid over.

The term person, as used in this section, including an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee or member is under a duty to perform the act in respect to which the violation occurs. (Ord. 1976-39. Passed 5-24-76.)

193.72 TENANT INFORMATION REPORTS BY LANDLORDS.

(a) All owners of rental or leased property, who rent to tenants, shall file with the Tax Administrator a report showing the name and address of each tenant who occupies such premises within the City as of January 1, 2005.

(b) Within 30 days after a new tenant occupies rental property of any kind within the City, all owners of rental or leased property who rent to tenants shall file with the Tax Administrator a report showing the name and address of each tenant who occupies such rental premises within the City.

(c) Within 30 days after a tenant vacates a rental or leased property located within the City, the owner of such vacated rental or leased property shall file with the Tax Administrator a report showing the date of vacation from the rental or leased property and the forwarding address of such vacating tenant.

(d) Property owners having 12 or more rental or leased units may, in lieu of divisions (b) and (c) of this section, comply with the intent of this section by filing with the Tax Administrator on a monthly or quarterly basis, as the Tax Administrator may prescribe by rule or regulation, a complete list of new tenants' names and addresses and a complete list of names and available forwarding addresses of tenants who vacate their units.

- (e) For purposes of this section, "tenant" means:
- (1) A person 18 years of age or older known to be occupying rental or leased property;
 - (2) If there is a written lease or rental agreement, the person who signed the written lease or rental agreement with the owner; or
 - (3) If there is an oral lease or rental agreement, the person with whom the owner entered into the oral lease or rental agreement.
- (Ord. 1986-16. Passed 4-14-86; Ord. 2004-36. Passed 12-13-04.)

193.73 ALLOWANCE OF UNREIMBURSED EMPLOYEE BUSINESS EXPENSES.

(a) An unreimbursed employee business expense for business expenses in excess of two percent of Federal adjusted gross income shall be allowed. Business expenses shall consist solely of the following items:

- (1) Vehicle expenses (standard mileage rate or actual car expenses);
- (2) Parking fees, tolls and transportation, including train, bus or air; and
- (3) Travel expenses while away from home overnight.

(b) Vehicle and travel expenses for educational purposes or for the purpose of commuting to the place of employment shall not be permitted.
(Ord. 1996-1. Passed 1-8-96.)

193.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter for which no penalty is otherwise provided is guilty of a misdemeanor of the second degree and shall be fined not more than seven hundred fifty dollars (\$750.00) or imprisoned not more than ninety days, or both, for each offense.

(b) Whoever violates Section 193.63 is guilty of a misdemeanor of the first degree and 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 193.63 relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(Adopting Ordinance)

(c) Whoever violates or fails to comply with any of the provisions of Section 193.72 is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both.
(Ord. 1986-16. Passed 4-14-86.)