

TITLE ELEVEN - Taxation
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CHAPTER 191
 Earned Income Tax

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CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718
 Bond for Director - see ADM. 145.03

191.01 DEFINITIONS.

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

- (a) "Administrator " means the Finance Director, or his designee, who is designated to administer and enforce the provisions of the municipal income tax along with the Administrator of the Regional Income Tax Agency.
- (b) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in this chapter.

- (d) "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.
- (e) "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. "Corporation" shall include Subchapter S Corporation.
- (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of any employer.
- (g) "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.
- (h) "Fiscal Year" means an account period of twelve months or less ending on any day other than December 31st.
- (i) "Fundamental Change" means any substantial alteration by an employer, including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.
- (j) "Gross Receipts " means the total income from any source whatsoever.
- (k) "Manager" means any of the employer's officers, responsible persons, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with the ordinance.
- (l) "Net Profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses 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.
- (m) "Nonresident" means an individual domiciled outside the City of Steubenville.
- (n) "Nonresident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the City of Steubenville.
- (o) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (p) "Place of Business" means any bonafide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (q) "Resident" means an individual domiciled in the City of Steubenville.
- (r) "Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the City of Steubenville.
- (s) "Taxable Income" means wages, salaries and other compensation paid by an employer or employers before any deductions; and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the chapter.

- (t) "Taxable Year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (u) "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. 1995-48. Passed 6-27-95.)

191.02 BOARD OF REVIEW.

(a) The Mayor shall appoint, by and with the consent of Council, three persons of recognized character and ability to serve as a Board of Review. The term of office of each member of the Board of Review shall be four years, except that the members appointed to the first Board of Review shall serve terms of two, three and four years respectively.

(b) At the time of any appointment, at least one member of the Board of Review shall not be an adherent of the same political party as the other two members.

(c) All amendments or changes to the rules and regulations which are adopted by the Administrator under Section 191.09 must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council, shall be open to public inspection and shall have the force and effect of law.

(d) Any person dissatisfied with any ruling of the Administrator may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction in the manner provided by law.

(e) The Board of Review shall elect its own officers. A majority of the members of the Board shall constitute a quorum. The Board of Review shall adopt and publish its own procedural rules and shall keep a record of its transactions. All hearings of appeals by the Board shall be conducted privately. All other hearings by the Board shall be conducted publicly. (Ord. 1995-48. Passed 6-27-95.)

191.03 PURPOSE OF LEVY OF INCOME TAX.

(a) To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements, there shall be and is hereby levied a tax of one percent (1%) per annum on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(b) To provide funds for a five-year period of time for the purposes of paying salaries for Municipal employees and for making street improvements, here is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided, in the amount of three-tenths of one percent (.3%) per annum with eighty-five percent (85%) of such additional revenue to be applied to salaries for Municipal employees and fifteen percent (15%) for street improvements.

(c) To provide funds for a five-year period of time for the purpose of paying for street improvements, capital improvements and equipment, parks and recreation and the General Fund, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensation, and all net profits as hereinafter provided, in the amount of seven-tenths of one percent (.7%) per annum with five hundred thousand dollars (\$500,000) of such additional revenue to be applied to street improvements; three hundred thousand dollars (\$300,000) of such additional revenue to be applied to capital improvements and equipment; one hundred thousand dollars (\$100,000) of such additional revenue to be applied to parks and recreation; and the balance of such additional revenue to be applied to the General Fund. (Ord. 1995-48. Passed 6-27-95.)

191.04 IMPOSITION OF TAX.

(a) An annual tax for the purposes specified in Section 191.03 shall be imposed at a rate of two percent (2%) per year, three-tenths (.3%) of which shall be for a five-year period of time from May 2, 2006 to May 3, 2011; and seven-tenths percent (.7%) of which shall be for a five-year period of time commencing November 7, 2006 to November 6, 2011: (Approved by voters 11-7-06)

- (1) On all salaries, wages, commissions and other compensation earned on and after January 1, 1968, by resident individuals of the City.
- (2) On all salaries, wages, commissions and other compensation earned on and after January 1, 1968, by nonresident individuals of the City from sales made, work done or services performed or rendered in the City.
- (3) A. On the net profits attributable to the City under the formula or separate accounting method provided for herein, earned on and after January 1, 1968, of all resident unincorporated businesses, profession or other activities derived from sales made, work done or services performed or rendered and business or other activities conducted in the City.
B. On that portion of the distributive share of the net profits earned on and after January 1, 1968, of a resident individual partner or owner of a resident unincorporated business entity not attributable to the City, under the formula or separate accounting method provided for herein and not levied against such unincorporated business entity.
- (4) A. On the net profits attributable to the City under the formula or separate accounting method provided for herein, earned on and after January 1, 1968, of all nonresident unincorporated businesses, professions or other activities derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.
B. On that portion of the distributive share of the net profits earned on and after January 1, 1968, of a resident individual partner or owner of a nonresident unincorporated business entity not attributable to the City under the formula or separate accounting method provided for herein and not levied against such unincorporated business entity.

- (5) On the net profits attributable to the City under the formula or separate accounting method provided for herein, earned on and after January 1, 1968, of all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(b) Allocation of Net Profits. In the taxation of income which is subject to the tax, 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 taxable situs in the City for the purposes of the tax. 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 allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (1) The average net book value 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 paragraph, "real property" includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

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

(c) Sales Made in the City. As used in subsection (b) above, "sales made in the City" means:

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

- (3) All sales of tangible personal property which is shipped from a place within the City of Steubenville to purchasers outside of the City of Steubenville, 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.

(d) **Total Allocation.** Add together the percentages determined in accordance with subsections (b)(1), (2) and (3) above 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 above.

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

(e) **Rentals.** Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 191.04 (a)(3), (4) and (5) only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer individually or through agents or other representatives) constitutes a business 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, aggregate in excess of one hundred dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) 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 said \$100.00 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 \$100.00 per month.

(f) **Operating Loss Carry-Forward.**

- (1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1968, 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.
- (2) 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.
- (3) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

- (4) The net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two (2) or more taxable business activities to be included in the same return, the net loss of one (1) unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.
- (g) Exemptions. The tax provided for herein shall not be levied on the following:
- (1) Pay or allowances of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
 - (2) 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.
 - (3) 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.
 - (4) Receipt from seasonal or casual entertainment, amusements, sport events and health and welfare activities when any such are conducted by bonafide charitable, religious or educational organizations and associations.
 - (5) Alimony received.
 - (6) Personal earnings of any natural person under eighteen years of age.
 - (7) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
 - (8) Interest, dividends and other revenue from intangible property.
 - (9) Gains from involuntary conversion, 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).
 - (10) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
 - (11) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes.
(Ord. 1995-48. Passed 6-27-95.)

191.05 EFFECTIVE PERIOD.

- (a) The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 1968, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1968.

(b) If, by operation of law, the commencement date for the levy, collection and payment of the tax provided for by this chapter is postponed, the alternate date for the commencement of the levy, collection and payment of the tax shall be the beginning of the first month of any calendar quarter after such legal impediment is removed. (Ord. 1995-48. Passed 6-27-95.)

191.06 RETURN; PAYMENT OF TAX.

(a) When Return Required to be Made. Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 15th of the year following the effective date of this chapter and on or before April 15th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year the return shall be filed on the fifteenth day of the fourth month following the end of such fiscal period.

(b) Form and Contents 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:

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

(c) 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 of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid with the period as extended.

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.
- (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in the case any person operates a division, branch, factory, office, laboratory or activity within the City of Steubenville 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 of Steubenville. If the Administrator finds that net profits are not properly allocated to the City of Steubenville by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City.

- (e) Amended Returns.
- (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both contained in appropriate sections of this chapter. 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.
 - (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's municipal tax liability, such taxpayer shall make and file an amended municipal return showing income subject to the municipal 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.
- (f) Payment of Tax on Filing of Returns.
- (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereof; provided, however, that:
 - A. Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this chapter; or
 - B. Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this chapter; or
 - C. Where an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in this chapter, 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 said return.
 - (2) A taxpayer who has overpaid the amount of tax to which the City of Steubenville is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or at this election, indicated on the return, such overpayment (or any 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. 1995-48. Passed 6-27-95.)

191.07 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City, or maintaining an office or transacting business without the City and also having an office or transacting business within the City and employing residents of the City at such place of business outside the City, shall deduct, at the time of payment of any salary, wage, commission or other compensation, the tax specified in Section 191.04 on gross salaries, wages, commissions or other compensation due by said employer to said employee and shall in accordance with the schedule prescribed by Section 191.07 (a)(1) and (2) hereof, make a return and pay to the Administrator the amount of tax so deducted.

Employers shall file a return and pay to the Administrator all taxes withheld or required to be withheld as follows:

- (1) If at the end of each calendar quarter, taxes withheld or required to be withheld total one thousand dollars (\$1,000) or less, payment for that calendar quarter shall be made no later than the last day of the month following the close of each calendar quarter.
 - (2) Monthly payments shall be made if the tax withheld or required to be withheld in a calendar quarter is greater than one thousand dollars (\$1000). Payment shall be made no later than ten (10) days after the close of each calendar month.
- (b) Said returns shall be on a form or forms prescribed 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.
- (c) Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer to the City of Steubenville as a trustee for the benefit of the City of Steubenville, and any such tax collected by such employer from his employees shall, until the same is paid to the City of Steubenville, be deemed a trust fund in the hands of such employer.
- (d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City of Steubenville, but such employee shall be subject to all of the requirements of the chapter.
- (e) **Manager's Obligation:**
- (1) Every manager is deemed to be a trustee of the City of Steubenville in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the City of Steubenville for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the City of Steubenville whether or not the employer actually remits the tax to the City of Steubenville for purposes of determining employee payments or credits.
 - (2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.
 - (3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes. (Ord. 1995-48. Passed 6-27-95.)

191.08 DECLARATION.

(a) Declarations of Income Not Collected at Source. Any person whose income tax is not fully withheld in the City of Steubenville or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in this chapter hereof shall file a declaration setting forth estimated taxable income, including distributive shares of net profits of incorporated business entities estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon less:

- (1) Tax withheld within the City of Steubenville;
- (2) The tax credit allowed in the appropriate section of this chapter.

(b) Filing of Declaration.

- (1) The declaration required by this chapter shall be filed on or before April 15th of each year during the effective period set forth in this chapter or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) Form of Declaration.

- (1) The declaration required by this chapter shall be filed upon a form furnished by or obtainable from the Administrator. As provided for in this chapter, credit shall be taken for the City of Steubenville tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of this chapter.
- (2) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(d) Payment to Accompany Declaration.

- (1) Such declaration of estimated tax to be paid to the City of Steubenville shall be accompanied by a payment of at least one-fourth (.25) of the estimated annual tax and at least a similar amount shall be paid on or before the 15th day of the sixth, ninth and twelfth months after the beginning of the taxable year. Provided, however, that 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 date or dates.

If the total estimated tax for the current year amounts to not more than one hundred dollars (\$100.00), no payment of estimated tax is required and a declaration need not be filed.

- (2) A declaration of estimated tax which is less than 80% of the tax as shown on the final return or is not equal to or greater than the prior year's liability, provided that such prior year's liability was not zero, shall not be considered filed in good faith. The difference between the estimate and tax as shown on the annual return shall be subject to interest and penalty as provided in Section 191.14 (a) of this chapter.

(e) Annual Return. On or before the 15th 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 the City of Steubenville shall be paid therewith in accordance with the provisions of this chapter. (Ord. 1995-48. Passed 6-27-95.)

191.09 DUTIES OF THE ADMINISTRATOR.

(a) Duty to Receive Tax Imposed. It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof, and to report all monies so received in a monthly summary report to the City Manager.

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

(c) Authority to Make and Enforce Regulations. The Administrator or his duly designated deputy is charged with the enforcement of the provisions of this chapter and except as provided in Section 191.02 is empowered, subject to the approval of Council, to adopt and promulgate and to enforce rules and regulations relating to matters or things pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments. The failure of Council to act upon rules and regulations promulgated by the Administrator in accordance with this chapter within thirty days of notice thereof shall be deemed to be concurrence therein.

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

(e) Authority to Determine Amount of Tax Due. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.

(f) Authority to Make Investigation. 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.

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

(h) Refusal to Produce Records. The refusal to produce books, papers, records and federal income tax returns, 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 of subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter punishable as provided in this chapter.

(i) Confidential Nature of Information. 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. Any person divulging such information in violation of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than 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, any employee of the City who violates the provisions of this section relative to the disclosures of confidential information shall be guilty of an offense punishable by immediate dismissal.

(j) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.
(Ord. 1995-48. Passed 6-27-95.)

191.10 AUTHORITY TO CONTRACT FROM CENTRAL COLLECTION FACILITIES.

The City of Steubenville having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance No. 1995-47, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency," the Board of Trustees of said Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the City of Steubenville, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of said agency through the Administrator of said agency. Provided, however, the Administrator of said agency shall have no authority to abate penalties or interest provided for in this chapter.
(Ord. 1995-48. Passed 6-27-95.)

191.11 CREDIT FOR INCOME TAXED ELSEWHERE.

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

(b) The credit provision of this chapter applies only to residents of the City. Nonresidents who receive net profits, salaries, wages, commissions or other compensation for work done or services performed or rendered within the City, and subject to the tax imposed by this chapter, shall not be allowed a credit for any income tax paid to another City, political subdivision or state.

(Ord. 1995-48. Passed 6-27-95.)

191.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of the 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.

(b) 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 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.

(c) Amounts of Less Than One Dollar. Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 1995-48. Passed 6-27-95.)

191.13 ALLOCATION OF FUNDS.

(a) Allocation. All funds collected under this chapter are hereby allocated to the General Fund for the purposes specified in this chapter. No capital improvement or general operating expense shall be paid out of this Fund unless first approved by Council in the manner provided for by law and as herein specified.

(b) Earmarking. Four-tenths of the one percent tax levied by this chapter is to be earmarked and expended in the following manner and for the following purposes:

- (1) The City has accumulated a large past indebtedness and overdrafts in an endeavor to provide the services demanded by the public and it has become necessary to first pay the accumulated indebtedness and overdrafts in full from part of the moneys received from this chapter.
- (2) First payment of a four hundred thousand dollar (\$400,000) note is to be provided and issued under this chapter and is to be made from the first funds provided by this chapter and payment is to be made in the following manner:
 - A. Ten thousand dollars (\$10,000) per month from the effective date of this section, for the first year, payable in quarterly installments.
 - B. Fifteen thousand dollars (\$15,000) per month during the second year and thereafter, payable in quarterly installments.
- (3) Upon the payment of this note, the funds are to be used to pay general operating expense indebtedness and overdrafts; any additional or excess moneys received under this tax are to be used to pay the remaining balances of the City's operating expense indebtedness.
- (4) Upon the full payment of the City's general operating indebtedness as presently established, the proceeds derived from the remaining life of this tax are to be earmarked and allocated according to percentages for programs requiring General Fund moneys.
- (5) Earmarking of percentages and allocations of the funds as stated in subsection (b)(4) hereof, and the uses and purposes for which the some are to be expended, is to be done upon recommendation of the Finance Director in conjunction with the Finance Committee of Council and upon a two-thirds acceptance vote by a majority of the members of Council. (Ord. 1995-48. Passed 6-27-95.)

191.14 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed and all monies withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter of the City of Steubenville and remaining unpaid after they become due, shall bear interest at the rate of one-half of one percent ($\frac{1}{2}\%$) per month or fraction thereof.

(b) Penalties on Unpaid Tax. In addition to interest as provided in this chapter, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due, other than taxes withheld: one and one-half of one percent (1.5%) per month or fraction thereof, but accumulated penalty shall not exceed twenty-five percent (25%) upon any unpaid amount and shall not be less than five dollars (\$5.00).
- (2) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than five dollars (\$5.00).

(c) Exceptions. A penalty shall not be assessed on any additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereof 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 against a taxpayer by the Administrator resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the federal tax liability.

(d) Abatement 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/or interest, the Board of Review may, nevertheless, abate penalty or interest, or both.
(Ord. 1995-48. Passed 6-27-95.)

191.15 SEVERABILITY.

This chapter shall not apply to any person, firm, corporation or to any property, as to whom or which it is beyond the power of Council to impose the tax herein provided for. 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 effect 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 part of this chapter. It is 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. 1995-48. Passed 6-27-95.)

191.16 CANCELLATION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as a levy of taxes is concerned for an indeterminate period of time or for the longest period of time permitted by law, whichever is greater, and insofar as the collection of taxes levied in the aforesaid period and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter is concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and until any and all suits for the collection of taxes and prosecutions for the collection of taxes or for the punishment of violations of any of the provisions of this chapter have been fully terminated, subject to the limitations contained in Sections 191.12 and 191.99.

(b) Annual returns for the last year, or portion thereof, in which this tax is levied, shall be filed within four months from the last day such levy ends, and any tax shown due thereon for the last year, or portion thereof, in which this tax is levied, which is not paid and collected under the provisions of Sections 191.07 and/or 191.08, shall be paid with such annual return, except in those cases in which the time for filing returns and/or payment of the tax due has been extended in accordance with Section 191.06, and except for claims for reciprocity refunds properly assigned and collectible from any state or political subdivision thereof.

(Ord. 1995-48. Passed 6-27-95.)

191.99 VIOLATIONS.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to any employer false information as to his true name, correct social security number and resident address, or fail to promptly notify an employer of any change in resident address and date thereof; or
- (10) Fail to use ordinary, diligence in maintaining proper records of employees' resident addresses, total wages paid and municipal tax withheld or knowingly give the Administrator false information; or
- (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

shall be 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, for each offense. If a City official or employee, he or she shall also be subject to dismissal from City employment.

(b) Limitation on Prosecution. All prosecutions under this chapter shall be commenced within three (3) years after the commission of the offense provided that in the case of fraud, failure to file a return or the omission of 25% or more of the income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense (pursuant to Ohio R.C. 718.06).

(c) 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. 1995-48. Passed 6-27-95.)