

CHAPTER 173
Income Tax

EDITOR'S NOTE: See Chapter [171](#) for income tax effective January 1, 2016.

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CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42
Municipal income tax - see Ohio R.C. Ch. 718
State income tax - see Ohio R.C. Ch. 5747

173.01 PURPOSE.

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities, and capital improvements of this Municipality, there is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as herein after provided.
(Ord. 4173. Passed 12-9-03.)

173.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

(a) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income;
- (2) Add an amount equal to five percent (5%) of intangible income deducted under subsection (a)(1) hereof but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- (4) A. Except as provided in subsection (a)(4)B. hereof, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 and 1231 of the Internal Revenue Code;
B. Subsection (a)(4)A. hereof does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (7) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
A. Guaranteed payments and similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
B. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in subsection (a)(1) hereof shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

Nothing in this chapter shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

- (b) "Association" means a 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 Section [173.12](#).
- (d) "Business" means an 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, including, but not limited to, the renting or leasing of property, real, personal or mixed.
- (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.
- (f) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (j) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (k) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax income.
- (l) "Gross receipts" means the total income from any source whatsoever.
- (m) "Income from a pass through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (n) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (o) "Income tax supervisor" means the individual designated to administer and enforce the provisions of this chapter.
- (p) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26U.S.C. 1, as amended.
- (q) "Joint Economic Development District" means districts created under the Ohio R.C. 715.70 through 715.83 as amended from time to time.
- (r) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (s) "Municipality" means the City of Urbana.
- (t) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provisions for all ordinary, reasonable 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 exclusive of the amount of State franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this chapter.
- (u) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(c) of the Internal Revenue Code.
- (v) "Nonresident" means a person not domiciled in this Municipality.
- (w) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within this Municipality.
- (x) "Other compensation" includes payments made by an employer to an employee during periods of absence from work regardless of the fact that such payments may be labeled "sick leave," "sick pay," "vacation pay," "terminal pay" or "supplemental unemployment pay," but does not include compensation, other than cash, such as employer-paid premiums for group term life insurance, whose cost is included on the employee's federal form W-2 as compensation.
- (y) "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.
- (z) "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (aa) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of:
 - (1) The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to
 - (2) The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
- (bb) "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (cc) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

(dd) "Place of business" means any bona fide 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.

(ee) "Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.

(ff) "Resident" means a person domiciled in this Municipality; or a person who maintains a place of residence in the City which he habitats more than 180 days annually.

(gg) "Resident unincorporated business entity" means any unincorporated business entity having an office or place of business within this Municipality.

(hh) "Schedule C" means Internal Revenue schedule C filed by a taxpayer pursuant to the Internal Revenue Code.

(ii) "Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.

(jj) "Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.

(kk) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deductions, or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.

(ll) "Taxable year" means the calendar year or the fiscal year upon the basis of which 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 the return is required to be made.

(mm) "Taxpayer" means a person required hereunder to file a return or pay a tax.

(Ord. 4173. Passed 12-9-03.)

173.03 IMPOSITION.

(a) Rate, Income Taxed. An annual tax for the purposes specified in Section 173.01 hereof is imposed on and after the effective date of this chapter at the rate of one percent (1%) per annum upon the following:

(1) All qualifying wages, commissions, other compensation, and other taxable income earned or received during the effective period of this chapter by residents of this Municipality.
(2) All qualifying wages, commissions, other compensation, and other taxable income earned or received by during the effective period of this chapter by nonresidents for work done or services performed or rendered in this or for the Municipality as an employee or contractor of the Municipality.

(3) A. The portion attributable to this Municipality of the net profits earned during the effective period of this chapter by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in this Municipality.

B. The portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

C. The portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against the unincorporated business entity by this Municipality.

(4) A. The portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from sales made, work done or service performed or rendered, and business or other activities conducted in this Municipality, whether or not the unincorporated business entity has an office or place of business in this Municipality.

B. The portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity or pass-through entity not attributable to this Municipality and not levied against the unincorporated business entity or pass-through entity by this Municipality.

(5) The portion attributable to this Municipality, of the net profits earned during the effective period of this chapter of all corporations that are not pass-through entities from sales made, work done, services performed or rendered, and business or other activities conducted in this Municipality whether or not such corporations have an office or place of business in this Municipality.

(6) On all income received as gambling winnings as reported in IRS Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings. (Ord. 4184. Passed 5-11-04.)

(b) Attribution of Profits.

(1) For the purposes of this section, the portion of the net profits of a taxpayer conducting business activities both within and without the boundaries of this Municipality attributable to this Municipality shall be the same proportion as the average ratio of the following:

Multiply the entire net profits of the business by a business apportionment percentage to be determined by:

A. The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in this Municipality during the taxable period, to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, 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 this Municipality to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under section 718.011 of the Ohio Revised Code;

C. Gross receipts of the business or profession from sales made and services performed during the taxable periods in this Municipality, to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

D. Adding together the percentages determined in accordance with subsections (b)(1)A., B. and C. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.

2. Provided however, that in the event a just and equitable result cannot be obtained under the formula provided herein, the Income Tax Supervisor, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(2) As used in subsection (b)(1) hereof, the following terms shall have the meanings indicated:

"Sales made in this Municipality" means:

A. All sales of tangible personal property delivered within this Municipality, regardless of where title passes, if shipped or delivered from a stock of goods within the Municipality.

B. All sales of tangible personal property delivered within this Municipality, regardless of where title passes, even though transported from a point outside this Municipality, if the taxpayer is regularly engaged, through its own employees, in the solicitation or promotion of sales within this Municipality, and the sales result from such solicitation or promotion.

C. All sales of tangible personal property shipped from a place within this Municipality to purchasers outside this Municipality, 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.

(c) Operating Losses. A business operating loss may only be offset against the profits of a business of like nature owned by the same taxpayer. Similarly, losses resulting from the operation of rental properties may only be offset against the profits generated by other rentals owned by the same taxpayer. Operating losses may not be offset against salaries, wages, commissions and other compensation as defined in this chapter.

(d) Operating Loss Carry-Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to the effective date of this chapter allocable to this Municipality may be applied against the portion of the profit of succeeding years, allocable to this Municipality, until exhausted but in no event for more than three taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(3) The Income Tax Supervisor shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(e) Consolidated Returns. Filing of consolidated returns may be permitted, required or denied in accordance with rules and regulations prescribed by the Income Tax Supervisor. In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operated a division, branch, factory, office, laboratory or activity within this Municipality constituting a portion only of its total business, the Income Tax Supervisor shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this Municipality. If the Income Tax Supervisor finds net profits are not properly allocated to this Municipality 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 activity or by some other method, he shall make such allocations as he deems appropriate to produce a fair and proper allocation of net profits to this Municipality.

(f) Exclusions From Tax. The tax provided for herein shall not be levied upon the following:

(1) A military pay or allowance of a member of the armed forces of the United States or income of civic, charitable, religious, 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) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities which are conducted by bona fide charitable, religious or educational organizations and associations.

(5) Alimony received.

(6) Personal earnings of any natural person under sixteen 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 from which the City is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except income from the operations of a business).

(10) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:

A. 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.

B. 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.

(11) The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 and 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745, of the Ohio Revised Code:

- A. The income of an electric company or combined company;
- B. The income of a telephone company.

As used in division (f)(1) of this Section, "combined company", "electric company" and "telephone company" have the same meaning as in section 5727.01 of the Ohio Revised Code

(12) An S Corporation shareholder's distributive share of net profits or losses of the S corporation.

(13) 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 powers of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(14) 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.

(Ord. 4173. Passed 12-9-03.)

173.031 ADDITIONAL TAX.

- (a) In addition to the annual tax imposed by Section 173.03, an additional annual tax of four-tenths of one-percent (0.4%) is also imposed.
 - (b) The additional tax shall be used solely for public safety operating and capital improvement purposes.
 - (c) The additional tax imposed by this section is imposed on the same basis as the annual tax imposed by Section 173.03 and shall be levied, collected and administered under the provisions of this chapter.
 - (d) The additional tax shall take effect on January 1, 1992.
- (Ord. 4173. Passed 12-9-03.)

173.04 ANNUAL RETURN AND PAYMENT.

(a) Every person upon whom a tax is imposed by Section 173.03, except as herein provided, shall, whether or not a tax is due thereon, make and file an annual 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 shall be filed within four months from the end of that fiscal year or period.

(b) The annual return shall also show the amount of tax imposed by this chapter on such earnings and profits. The taxpayer making this annual return shall at the time of the filing thereof pay to the Income Tax Supervisor the amount of taxes shown as due thereon. However, where any portion of the tax so due is deducted at the source and is paid to the Income Tax Supervisor by the person making the deduction pursuant to the provisions of Section 173.06 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 the annual return. Further, where any tax payments are made to another municipality granting reciprocity similar to the provisions of Section 173.13, credit for the amount so paid and to the extent refundable under the reciprocity may also be deducted from the amount of tax shown to be due on the annual return, and only the balance of tax, if any, shall be due and payable at the time of filing the annual return. If the amount of the credit for refundable tax payments made to a municipality having a similar reciprocity is equal to or in excess of the balance of tax shown to be due on the annual return, no payment need be made at the time of filing the annual return.

(c) The claiming of credit for amounts so paid to any other municipality shall constitute an assignment and transfer to the City of all right, title and interest of the taxpayer claiming the credit in and to any claim for refund of the amounts so paid to the other municipality. In the event of a refund not received by the City in an amount equal to the credit claimed by reason of tax payments made to another municipality and subject to reciprocity, then the taxpayer shall be liable to the City for and as taxes due from the date of the filing of the annual return upon which the credit was claimed of the amounts by which the claimed credit exceeds the amount of refund received by this City.

(d) The Income Tax Supervisor 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 one month beyond any extension requested or granted by the Internal Revenue Service for the filing of the federal income tax return. The Income Tax Supervisor 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 shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(e) The taxpayer making a return shall, at the time of the filing thereof, pay to the Income Tax Supervisor the amount of taxes shown as due thereon. However, where any portion of the tax so due is deducted at the source pursuant to the provisions of Section 173.05 any portion of the tax is paid by the taxpayer pursuant to the provisions of Section 173.06 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 173.13, 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 the return.

(f) A taxpayer who has overpaid the amount of tax to which this Municipality 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, the 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.

(g) Amended Returns.

(1) An amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations contained in Section 173.10. Amended returns shall be on a form obtainable on request from the Income Tax Supervisor. 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 ninety days from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, the taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality based upon the final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund for any overpayment.

(h) A penalty of twenty-five dollars (\$25.00) shall be assessed by the Income Tax Supervisor for the failure of a taxpayer to file a return as required by the provisions of this section for which no extension has been granted or where an extension has been granted within the time period of the extension.

(Ord. 4173. Passed 12-9-03.)

173.05 COLLECTION AT SOURCE.

(a) Each employer within, or doing business within, the City, who employs one or more persons on a salary, wage, commission or other compensation basis, shall deduct at the time of the payment of the salary, wage, commission or other compensation, the tax levied under this chapter of the gross salaries, wages, commissions or other compensation due by the employer to employee. The employer shall make the return and pay the amounts deducted on or before the 15th day of the month following the close of each calendar month. The return shall be on a form or forms prescribed by and obtainable from the Income Tax Supervisor, and shall be subject to the rules and regulations prescribed therefor by the Income Tax Supervisor. Certain employers may be authorized to make quarterly rather than monthly returns as provided in this section. Authorization for quarterly returns shall be at the discretion of the Income Tax Supervisor in accordance with regulations adopted by the Supervisor pursuant to Section 173.07(b). Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) An employer in collecting the tax shall be deemed to hold the same, until payment is made by the employer to this Municipality, as a trustee for the benefit of this Municipality. Any tax collected by an employer from his employees, shall, until the same is paid to this Municipality, be deemed a trust fund in the hands of the employer.

(c) On or before February 28th following any calendar year, the employer shall file with the Income Tax Supervisor an information return for each employee from whom City income tax has been, or should have been withheld, showing the name, address and social security number of the employee, the total amount of compensation paid during the year, and the amount of City income tax withheld from the employee.

(d) The Income Tax Supervisor, for good cause, may require immediate returns and payments to be submitted to his office.

(e) No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about the person's residence. Domestic servants shall be responsible for filing and paying their own returns and taxes.

(f) By December 1, 1992, and by November 1 of each and every year thereafter, all landlords who rent real property in the City shall submit an up-to-date list of all their tenants to the City Income Tax Supervisor. Any person who violates this section shall be subject to a fine of twenty-five dollars (\$25.00) per day for each and every day they remain in violation and will be subject to all other methods of collection procedures.

(Ord. 4173. Passed 12-9-03.)

173.06 DECLARATIONS OF ESTIMATED TAX.

(a) Every person who anticipates any taxable income which is not subject to Section 173.05 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 173.03 hereof, shall file a declaration setting forth the estimated income or the estimated profit or loss from the business activity, together with the estimated tax due thereon, if any. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 173.05, the person need not file a declaration.

(b) This declaration shall be filed on or before April 15th of each year during the effective period of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time. 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) This declaration shall be filed upon a form furnished by or obtainable from the Income Tax Supervisor, provided, however, credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 173.13, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality. 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.

any subsequent amendment hereto) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(d) The declaration of estimated tax to be paid this Municipality 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 15th day of the sixth, ninth and twelfth months after the beginning of the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown thereon shall be paid in equal installments on or before the remaining payment dates.

(e) The taxpayer shall base his estimated tax on the preceding year's tax liability or by annualizing if the preceding tax period was not for a full twelve-month period. In that case, if each installment is paid on that basis, no interest or penalty shall apply for underestimate, regardless of the final tax liability, except in the case where the required return and final return payment have not been submitted within the four-month period after the close of the tax year.

(f) An annual return shall be filed and any balance which may be due this Municipality shall be paid therewith in accordance with the provisions of Section [173.04](#).
(Ord. 4173. Passed 12-9-03.)

173.07 DUTIES OF INCOME TAX SUPERVISOR.

(a) The Income Tax Supervisor shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, shall keep an accurate record thereof and shall report all moneys so received. The Income Tax Supervisor shall enforce payment of all taxes owing this Municipality; shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration or to make any return, or both, including taxes withheld; and shall show the dates and amounts of payments thereof.

(b) The Income Tax Supervisor is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to 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.

(1) The Income Tax Supervisor 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 Income Tax Supervisor that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. This authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the chapter.

(2) 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 [173.10](#) and [173.11](#) shall apply.

(c) 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 Income Tax Supervisor may determine the amount of tax appearing to be due this Municipality from the taxpayer and shall send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Income Tax Supervisor shall have the power to compromise any interest or penalty, or both, imposed by Section [173.09](#).
(Ord. 4173. Passed 12-9-03.)

173.08 INVESTIGATIVE POWERS OF THE INCOME TAX SUPERVISOR; CONFIDENTIALITY OF INFORMATION.

(a) The Income Tax Supervisor 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 Income Tax Supervisor 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 of the Income Tax Supervisor or his duly appointed agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Income Tax Supervisor 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 reported 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 those persons have knowledge of such income or information pertinent to the inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination, by any employer or person subject or presumed to be subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Income Tax Supervisor authorized hereby, shall be deemed a violation of this chapter.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Income Tax Supervisor, required by this chapter or authorized by these rules and regulations, shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction.

(e) 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. 4173. Passed 12-9-03.)

173.09 INTEREST PENALTIES.

(a) 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 one and one-half percent (1.5%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, 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 percent (1.5%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees, three percent (3%) per month or fraction thereof.

(c) A penalty shall not be assessed on an additional tax assessment made by the Income Tax Supervisor when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Income Tax Supervisor. 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 final determination of the federal tax liability.

(d) Upon recommendation of the Income Tax Supervisor, the Board of Review may abate penalty or interest, or both. Upon an appeal from the refusal of the Income Tax Supervisor to recommend abatement of penalty and interest, or both, the Board may nevertheless abate penalty or interest.
(Ord. 4173. Passed 12-9-03.)

173.10 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible, together with any collection costs, litigation costs, attorney fees, Court costs, other related costs, interest and penalties thereon, by a civil action at law. All additional assessments shall be made, and all civil actions to recover Municipal income taxes, collection costs, litigation costs, attorney fees, Court costs, other related costs, interest, and penalties thereon, shall be brought, within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refunds of Municipal income taxes shall be brought within the time limitation provided in subsection (a) hereof, and in the manner provided for in Section [173.04](#).

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 4173. Passed 12-9-03.)

173.11 VIOLATIONS.

(a) Whoever shall do any of the following shall be subject to the penalty provided in Section [173.99](#):

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter.
- (2) Make an incomplete, false or fraudulent return.
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter.
- (4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Income Tax Supervisor.
- (5) Refuse to permit the Income Tax Supervisor or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer.
- (6) Fail to appear before the Income Tax Supervisor and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer, upon the order or subpoena of the Income Tax Supervisor.
- (7) Refuse to disclose to the Income Tax Supervisor 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 Income Tax Supervisor authorized hereby.
- (9) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof.
- (10) Fail to use ordinary diligence in maintaining proper records of employee's residence addresses, total wages paid and this Municipality's income tax withheld, or to knowingly give the Income Tax Supervisor false information.
- (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.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing the form or from paying the tax.
(Ord. 4173. Passed 12-9-03.)

173.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Director of Finance, who will act as chairman, the Director of Law and one other individual to be appointed by the Mayor, is hereby created. 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 [173.08](#) with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Income Tax Supervisor under the authority conferred by this chapter, shall be approved by the Board before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Income Tax Supervisor and, at the request of the taxpayer or Income Tax Supervisor, is empowered to substitute alternate methods of allocation.

(c) Any person dissatisfied with any ruling or decision of the Income Tax Supervisor which is made under the authority conferred by this chapter may appeal therefrom to the Board within thirty days from the announcement of the ruling or decision by the Income Tax Supervisor. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord. 4173. Passed 12-9-03.)

173.13 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Subject to the following limitation, every individual taxpayer who resides in this Municipality who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside this Municipality, if it is made to appear that the taxpayer has paid a municipal income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed by this chapter on the amount so paid by the taxpayer or in the taxpayer's behalf to the other municipality. The credit shall be one percent (1%) of such income earned in the other municipality or municipalities where tax is paid.

(b) A claim for refund or credit under this section shall be made in such manner as the Income Tax Supervisor may by regulation provide.
(Ord. 4173. Passed 12-9-03.)

173.99 PENALTY.

(a) Whoever fails to comply with the provisions of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) Any person divulging information gained as a result of the procedures and purposes described in Section [173.08](#) shall be fined not more than five hundred dollars (\$500.00) 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 this Municipality who violates the provisions of Section [173.08](#) relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 4173. Passed 12-9-03.)