

CHAPTER 181
Municipal Income Tax

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CROSS REFERENCES

- Income Tax Division established - see Whitehall Charter [§43](#)
- Power to tax - see Ohio Constitution, Article XII 8
- Limitation on tax rate - see Whitehall Charter [66](#)
- Auditor to be Tax Commissioner - see ADM. [135.01](#)
- Municipal income taxes - see Ohio R.C. Chapter 718

181.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment and capital improvements of the City of Whitehall and other items as set forth in this chapter, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(Ord. 71-00. Passed 12-19-00.)

181.02 DEFINITIONS.

As used in this chapter, the following words shall have the meanings ascribed to them in this chapter unless the context clearly indicates or requires a different meaning. The singular shall include the plural and the masculine gender shall include the feminine and the neuter genders.

(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; but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio R.C. 5745.03 or to the net profit from a sole proprietorship.

(b) "Association" means a partnership, limited partnership, limited liability partnership or any other form of unincorporated enterprise owned by two or more persons, a limited liability corporation or a Subchapter S Corporation as defined in the Federal Tax Code.

(c) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.

(d) "Board of Income Tax Review" means the Board created by and constituted as provided for in Section [181.22](#).

(e) "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.

(f) "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.

(g) "Domicile" means a place where a person lives, or has his home, a permanent legal home a person intends to use for an indefinite or unlimited period, and to which, when absent, he intends to return.

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

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

(k) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(l) "Form 5754, Statement by Person(s) Receiving Gambling Winnings" means Internal Revenue Service Form 5754 filed by a taxpayer pursuant to the Internal Revenue Code.

(m) "Form 1099-MISC, Miscellaneous Income" means Internal Revenue Service Form 1099-MISC filed by a taxpayer pursuant to the Internal Revenue Code.

(n) "Form W-2, Wage and Tax Statement" means Internal Revenue Service Form W-2 filed by a taxpayer pursuant to the Internal Revenue Code.

(o) "Form W-2G, Certain Gambling Winnings" means Internal Revenue Service Form W-2G filed by a taxpayer pursuant to the Internal Revenue Code.

(p) "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 on income.

(q) "Gross receipts" means the total income of taxpayers from whatever source derived.

(r) "Income from a pass-through entity" means partnership income of partners, distributive shares of shareholders of an S Corporation, membership interests of members of a limited liability

company, or other distributive or proportionate ownership shares of other pass-through entities.

(s) "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.

(t) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, U.S.C. 1, as amended.

(u) "Internet" means the international computer network of both Federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the World Wide Web.

(v) "Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

(w) "Municipality" means the City of Whitehall.

(x) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit required to be reported on schedule C, schedule E, or schedule F.

(y) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(c) of the Internal Revenue Code.

(z) "Nonresident" means an individual domiciled outside the Municipality.

(aa) "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.

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

(cc) "Other payer" means any person, other than an individual's employer or the employer's agent, who pays an individual any amount included in the federal gross income of the individual.

(dd) "Owner" means a partner of a partnership, a shareholder of a Subchapter S Corporation, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.

(ee) "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.

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

(gg) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

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

(ii) "Principal place of business" means, in the case an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing

municipality.

(jj) "Professional athlete" means a person who is paid for participation in an individual or team sport and also for single or multiple appearances at an event.

(kk) "Professional entertainer" means a person who is paid for performing song, dance, music, comedy, drama and other arts either as an individual or as a member of a group for a single or multiple performances or appearances.

(ll) "Promoters of professional entertainment or sports events and their employees" means a person or persons who are responsible for planning, making arrangements, or providing services to a professional entertainer or professional athlete.

(mm) "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code, as amended.

(nn) "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.

(oo) "Real property" means commercial property, residential property, farm property and any and all other types of real estate.

(pp) "Rented units" means any unit of real property which is subject to a rental agreement, whether oral or written, for residential, commercial or industrial purposes.

(qq) "Resident" means any individual who is domiciled in the Municipality.

(rr) "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.

(ss) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business located within the Municipality.

(tt) "Return preparer" means any person other than a taxpayer who is authorized by a taxpayer to complete or file an income tax return, report or other document for or on behalf of the taxpayer.

(uu) "Sales made in the Municipality" means:

(1) All sales of tangible personal property delivered within the Municipality, regardless of where title passes if shipped or delivered from a stock of goods within the Municipality;

(2) All sales of tangible personal property delivered within the Municipality regardless of where title passes even though transported from a point outside the Municipality if the taxpayer is regularly engaged through its own employees in the solicitation or promotion;

(3) All sales of tangible personal property shipped from a place within the Municipality to purchasers outside the 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.

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

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

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

(yy) "S corporation" means a corporation that has made an election under subchapter S of chapter I of Subtitle A of the Internal Revenue Code for its taxable year.

(zz) "Tax Administrator" means the person appointed to administer the Municipality's Income Tax Ordinance and to direct the operation of the Municipal Income Tax Division or the person executing the duties of the Tax Commissioner.

(aaa) "Tax Commissioner" means the person elected to the position of City Auditor for the purpose of administering the Municipality's Income Tax Ordinance and directing the operation of the Municipal Income Tax Division.

(bbb) "Taxable income" means qualifying wages, paid by an employer or employers,

compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from all lottery winnings, prize money, and gambling winnings won on or after January 1, 2005, and income from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.

(ccc) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(ddd) "Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.

(eee) "Taxpayer" means a person, subject to a tax on income levied by a municipal corporation and does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

(Ord. 73-05. Passed 12-6-05.)

181.03 IMPOSITION OF TAX.

There is hereby levied a tax, which shall be collected and paid with respect to the salaries, wages, commissions and other compensation earned and shall be levied with respect to the net profits of the businesses, professional or other activities earned. This tax shall be levied at the rate of two and one-half percent (2.5%) per annum on the following:

(a) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality effective January 1, 2011.

(b) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done or services rendered in the Municipality effective January 1, 2011.

(c) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On 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.

(d) On the portion attributable to the Municipality of the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.

(e) On the portion attributable to the Municipality of the net profits earned by all corporations, estates and trusts that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality, effective for all accounting periods commencing on or after January 1, 2011.

(f) On all income received as gambling winnings as reported on 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. 39-10. Passed 7-20-10.)

181.04 APPORTIONMENT OF NET PROFITS.

(a) Business Both Inside and Outside the Municipal Boundaries. This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Except as otherwise provided in division (c) of this section, net profit from a business or profession conducted both inside and outside the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in 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:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation 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. For purposes of this determination, 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;

(2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation 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;

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(4) Adding together the percentages determined, in accordance with subsections (a)(1), (2) and (3) 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.

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

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

(b) As used in division (a) of this section, "sales made in a municipal corporation" shall be the same as defined in Section [181.02\(uu\)](#).

(c) Except as otherwise provided in division (d) of this section, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

(d) This section does not apply to individuals who are residents of the Municipality and, except as otherwise provided in Section 718.01, of the Ohio Revised Code, the Municipality may impose a tax on all income earned by resident of the Municipality to the extent allowed by the United States Constitution.

(e) Net Operating Loss (NOL).

(1) The net loss from an unincorporated business activity may not be used to offset salaries, wages, and commissions to the extent that they are reported on form W-2 or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

(2) The Municipality does not allow a net operating loss carry back or carry forward.

(f) Consolidated Returns.

(1) A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.

(2) Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the rules and regulations for discontinuing the filing of consolidated returns have been met.

(Ord. 73-05. Passed 12-6-05.)

181.05 RETURNS AND PAYMENT OF TAX.

(a) Each taxpayer who engages in business or whose taxable income is subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before April 15 of each year with the Tax Commissioner on a form furnished by or obtained from the Tax Commissioner or an acceptable generic form, setting forth the aggregate amount of taxable income earned together with such other pertinent information as the Tax Commissioner may require. However, when the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth day of the fourth month after the close of such fiscal year or other period. The Tax Commissioner is hereby authorized to provide, in accordance with regulations, that the return of an employer or employers, showing the amount of Whitehall income tax deducted by said employer or nonresidential employee, and paid by him or them to the Tax Commissioner may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such qualifying wages, commission, other compensation, and other taxable income.

(1) When a check is written to the City, as payee, and it is returned from the bank because of insufficient funds, closed account, or other reason, the direct cause thereof being the fault of the signee of the check, there shall be a thirty-five dollar (\$35.00) charge to the signee of the check in addition to the liability of making the check good and any other penalties assessed by law. In addition, where an ACH (Automated Clearing House) payment has been authorized as payment to the City and returned unpaid the same as above, there shall be a thirty-five dollar (\$35.00) charge to the person who authorized the ACH to be instituted.

(2) This charge shall be reviewed at least annually by the Tax Commissioner in order to align with prevailing charges exercised by the banking industry.

(Ord.68-09. Passed 11-17-09.)

(b) The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due thereon; provided, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section [181.09](#), or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section [181.10](#), or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section [181.17](#) shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such returns.

(c) The return shall set forth:

(1) The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable, and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax; and

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

(3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Administrator may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(d) Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this chapter. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Administrator, or his authorized representative, to file the items required by this paragraph.

(e) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint

municipal return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.
(Ord. 73-05. Passed 12-6-05.)

181.06 EXTENSIONS FOR FILING RETURN.

(a) The Tax Commissioner shall have the authority to extend the time for filing of the annual return provided the request of the taxpayer for a period not to exceed any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return is made in writing and filed not later than April 15 or the last day for filing the Municipal income tax return as prescribed by this chapter.

(b) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for filing the Municipal income tax return. The taxpayer shall make the request by filing a copy of his request for a federal filing extension with the Tax Commissioner. The request for extension shall be filed not later than April 15 or the last day for filing the Municipal income tax return as prescribed by this chapter. The request for extension shall be granted for a period not less than the period of the federal extension request. The Municipality may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the Municipality any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing the Municipal income tax return does not extend the last date for paying the tax without penalty unless the Municipality grants an extension of that date. Hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set in Section 181.15. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period, provided all other filing and payment requirements of this chapter have been met. Any extension by the Tax Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though the extension had been granted.

(Ord. 73-05. Passed 12-6-05.)

181.07 AMENDED RETURN.

(a) Where 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 and/or limitations contained in Section [181.08\(a\)](#), such amended return shall be on a form obtainable on request from the Tax Commissioner or an acceptable generic form. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's 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 a claim for refund of any overpayments.

(Ord. 73-05. Passed 12-6-05.)

181.08 REFUND FOR OVERPAYMENT.

(a) Subject to the limitations contained in Section [181.14](#) of this chapter, a taxpayer who has overpaid his income tax in any taxable year may request a refund, provided there is no other tax liability, and provided, further, that no amount of less than five dollars (\$5.00) will be collected or refunded.

(b) Such overpayment shall first be applied against any existing tax liability, pursuant to the provisions of Section [181.15](#) of this chapter, and the balance, if any, shall be refunded or transferred against any subsequent liability in accordance with the taxpayer's request.

(c) Refunds of overpayments shall not be allowed unless a written request is presented to the Tax Commissioner within three years of the date the taxes were due or the return was filed, whichever is later.

(1) For purposes of refunds sought under this section, the time specified in subdivision (c) hereof shall commence upon the first to be filed of either the Employer's Return of Tax Withheld, the employer's W3 (Withholding Reconciliation), the current or former employee's personal income tax return, or the business income tax return. (Ord. 48-12. Passed 9-4-12.)

181.09 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the Municipality shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax rate levied by Section [181.03](#) of the qualifying wages due by the said employer to said employee. 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. Every employer or officer of a corporation is deemed to be a trustee for the Municipality 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.

(Ord. 022-2012. Passed 4-17-12.)

(b) Employers shall pay to the Municipality all income taxes withheld or required to be deducted and withheld on either a monthly, semi-monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

(1) If the taxes withheld in the prior calendar year were more than one thousand one hundred ninety-nine dollars (\$1,199) or if the taxes withheld during any month in the preceding quarter exceeded one hundred dollars (\$100.00) monthly payments of the taxes withheld and/or required to be withheld shall be made by an employer. Such payment shall be made to the Municipality on or before the last day of the month following the month during which the undeposited taxes were withheld. Semi-monthly payments of the taxes deducted are to be made by an employer if the total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or the amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Semi-monthly payments shall be paid to the Municipality within three banking days after the fifteenth and the last day of the month.

(2) All employers not required to make monthly or semi-monthly payments of taxes deducted under subsection (b)(1) above shall make quarterly payments on or before the last day of the month following the end of each quarter.

(c) The employer shall make and file a return on a form furnished by the Tax Commissioner or an acceptable generic form, showing the amount of tax deducted by such employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the Municipality. Such employer's return shall be accepted as the return required of an employee who is a nonresident individual and whose sole income, subject to the tax under this chapter, is the salaries, wages, commissions and other compensation as properly reflected upon the return by such employer. This provision shall only apply to persons who are in fact "employees" who, as a direct consequence of their employment, are the proper subject of receipt of an IRS W-2 form; this provision shall not apply to recipients of the IRS form 1099 as "independent contractors" from whose compensation no tax has been withheld or a filing by the payer of said compensation.

(1) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report, on Form 1099-Misc., payments to individuals not treated as employees for service performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(2) Domestic Servants. No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

(Ord. 73-05. Passed 12-6-05.)

(d) Each employer on or before the last day of February each year, unless written request for thirty days extension is made to and granted by the Tax Commissioner following any calendar year in which such deductions have been made or should have been made by any employer, shall file with

the Tax Commissioner an information return (Whitehall Withholding Statement of Wages Paid and Whitehall Income Tax Withheld) for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid said employee during the year and the amount of Municipal income tax withheld from each employee.

(1) Beginning January 1, 2009, any person, including corporations, partnerships, employers, estates and trusts, who files 250 and more information returns of Form W-2 for any calendar year, must file these returns using magnetic media or such other process as determined acceptable to the Tax Commissioner. All requirements apply separately to both original and corrected forms. Employers filing fewer than 250 W-2's are encouraged, but are not required to remit W-2's electronically.

(Ord. 80-08. Passed 11-18-08.)

(e) Where a resident individual performs services for his employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the Municipality to the extent of the tax liability in the other municipality.

(f) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

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

(1) An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.

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

(3) Compensation deferred before the effective date of this chapter is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(Ord. 73-05. Passed 12-6-05.)

(h) An individual, association, C Corporation, or other entity engaged in the business of construction work and/or who will perform construction work in the City of Whitehall shall obtain a tax account number, issued by the Income Tax Division, prior to beginning construction work. The Income Tax Division shall also issue a Certification of Registration. Failure to possess a valid Certificate shall be cause for suspension of work by the Building Department, the Department of Development or the Income Tax Division prior to the construction work commencing or during the performance of the construction work. Proof of possession of a valid Certificate shall be necessary to commence or resume suspended construction work. The Certificate of Registration may be revoked by the Income Tax Division for failure by the contractor to remain current in the filing of required tax documents, for failure to remain current in the required payment of taxes and/or for failure to comply with Section [181.09](#) of this chapter. The contractor further agrees to supply the Income Tax Division with a list of subcontractors' names, addresses, Social Security or Federal ID numbers and a listing of the services each subcontractor will perform prior to beginning construction work.

(Ord. 68-09. Passed 11-17-09.)

(i) Effective January 1, 2007, every agent (third party) representing an employer filing monthly or semi-monthly as prescribed by the City, may make payment by the electronic funds transfer (EFT)

methods prescribed by the City, including use of the Ohio Business Gateway.
(Ord. 92-06. Passed 12-19-06.)

181.10 DECLARATIONS OF ESTIMATED TAX LIABILITY.

(a) Every person who anticipates any taxable income which is not subject to Section [181.09](#) or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section [181.03](#), and such income results in estimated tax due of one hundred dollars (\$100.00) or more, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the Municipality in accordance with Section [181.09](#) such person need not file a declaration.

(b) Except for taxpayer filing on a fiscal year basis, such declarations shall be filed on or before April 15 of each year during the effective period of this chapter or on or before the fifteenth day of the fourth month the taxpayer becomes subject to tax for the first time.

(c) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(d) Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner or an acceptable generic form provided, however, credit shall be taken for the Municipal tax to be withheld from any portion of such income.

(e) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment day as provided for herein.

(f) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22 1/2 %) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year. For taxpayers who are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22 1/2 %) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(Ord. 73-05. Passed 12-6-05.)

(g) Filing a Declaration Without a Payment. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(h) On or before April 15 or the fifteenth day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section [181.05](#).

(i) The Tax Commissioner shall not impose any penalty or interest for the late payment or nonpayment of estimated tax liability or for not filing a declaration:

(1) On any resident taxpayer who was not domiciled in the Municipality on the first day of January in the year in which the taxpayer became subject to filing a declaration and making estimated payments.

(2) If a taxpayer has remitted pursuant to this section an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve-month period and that taxpayer filed a return for that year.

(3) On estimated payments if the taxpayer has remitted, by the fourth estimated payment due date an amount equal to ninety percent of the final tax liability for the tax year due.

(4) Compliance with subsections (i)(2) and (3) hereof does not exempt assessments for late estimated payments.

(j) A declaration of estimated tax which is less than ninety percent (90%) of the tax shown on the final return shall not be considered in good faith. The difference shall be subject to penalties and interest as provided for in Section [181.15](#).

(Ord. 68-09. Passed 11-17-09.)

181.11 INCOME TAX DIVISION; DUTIES OF TAX COMMISSIONER.

(a) There is hereby established within the City Auditor's office, an Income Tax Division of which the Tax Commissioner shall be the administrative head, which Division shall be responsible for all matters constituting the subject matter of this chapter. Such Tax Commissioner shall appoint such other officers and employees as may be provided for by Council.

(b) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof and to report and turn over to the City Treasurer all money so received.

(c) It shall be the duty of the Tax Commissioner to enforce payment of all taxes owing the Municipality, to keep accurate records for a minimum of six (6) years showing the amount due from each tax payment and the date of such payment.

(d) The Tax Commissioner is hereby charged with the administration and enforcement of the provisions of this chapter and he is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

(e) The Tax Commissioner 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 Tax Commissioner 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 the taxpayer files proper returns for all amounts owed by him under this chapter.

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

(g) Subject to the consent of the Tax Commissioner, the Tax Administrator shall have the power to compromise any liability imposed by this chapter.

(h) The Tax Administrator shall have the power to compromise penalty and interest liabilities imposed by this chapter upon the demonstration and documentation of good cause.

(Ord. 73-05. Passed 12-6-05.)

181.12 INVESTIGATIVE POWERS OF TAX ADMINISTRATOR.

(a) The Tax Commissioner, 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 Tax Commissioner believes is subject to, the provisions of this chapter for the purposes 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 Tax Commissioner or his duly authorized agent or employee the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Tax Commissioner 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 would have been returned for taxation or any transaction tending to effect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records or 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 by an 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 section or with an order or subpoena of the Tax Administrator authorized hereby, shall be deemed a violation of this chapter punishable as provided in Section [181.15](#).

(d) Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes required to be withheld are paid.
(Ord. 73-05. Passed 12-6-05.)

181.13 TAX INFORMATION CONFIDENTIAL; PENALTY.

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 be fined not more than one hundred dollars (\$100.00). Each disclosure shall constitute a separate offense.

(Ord. 73-05. Passed 12-6-05.)

181.14 COLLECTION OF UNPAID TAXES.

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. The Tax Commissioner is authorized, in addition to his other duties, to institute civil lawsuits to collect delinquent taxes due and owing to the Municipality by virtue of the provisions of this chapter. The Tax Commissioner is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of state statutes of limitations.

(b) No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in a case of filing a false or fraudulent return with intent to evade the tax or in the case of failure to file a return. In those cases in which the 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 Tax Administrator shall be extended one year from the time of the final determination of the federal tax liability.

(c) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety days after the final filing date of the annual return or ninety days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Section 5703.47 of the Ohio Revised Code.

(Ord. 73-05. Passed 12-6-05.)

181.141 ALTERNATE METHOD OF COLLECTION OF UNPAID TAXES.

In addition to the procedure set forth in Section [181.14](#), the Tax Commissioner may proceed to collect delinquent returns and tax in accordance with this section.

(a) If any employer fails to remit or collect a tax as required by Section [181.09](#), he shall be personally liable for the amount due. The Commissioner may make an assessment against such employer based upon information in his possession that is relevant to prior filings, current business location, current employees and any other information relevant to the operation of the business.

(b) If any person fails to file a return required by Section [181.05](#) and properly remit the tax due thereon, or fails to make a declaration required by Section [181.10](#), the Commissioner may make an assessment of any unpaid portion of net taxes due. Such assessment may be based upon information in the possession of the Commissioner, including estimates based upon the taxpayer's previous returns.

(c) In each case, the Commissioner shall give to the person assessed, written notice of the assessment. Such notice may be served by certified mail, registered mail or personal service. If the taxpayer refuses receipt of certified or registered mail, the sending of said notice by regular mail will constitute valid receipt of assessment.

(d) Unless the employer or taxpayer to whom such notice of assessment is directed files within thirty days after service thereof, either personally or by registered or certified mail, a petition in writing, notarized or verified under oath by such employer or taxpayer, such assessment shall become conclusive and the amount thereof shall be due and payable. Such petition shall state with particularity the objections to the assessment.

(e) When a petition for reassessment is filed, the Commissioner shall set the time and place for a hearing. Notice of the hearing and the Commissioner's findings shall be served by either certified or registered mail, or by regular mail if the certified or registered mail is undeliverable. The Commissioner, at his sole discretion may continue hearings.

(f) Any penalty imposed by this chapter or per the Commissioner may be collected by assessment as provided by this section.

(g) All assessments not paid within thirty (30) days of becoming conclusive shall bear interest at the rate of one and one-half percent per month on the unpaid balance.

(h) The Commissioner may designate one or more persons in his employ as hearing examiners to act as his agent in conducting the hearing authorized by this section.

(Ord. 68-09. Passed 11-17-09.)

181.15 INTEREST AND PENALTIES.

(a) All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest. In addition to the amount of the unpaid tax, at the rate of eighteen percent (18%) per annum, and the taxpayers upon whom such taxes are imposed by this chapter shall be liable, in addition, a penalty of ten percent (10%) of the amount of the unpaid tax will be assessed. In addition to interest or penalties for nonpayment of taxes due from taxpayers, monies required to be withheld by employers under the provisions of this chapter, and for failure to timely file tax returns or declarations, the following penalties are hereby imposed.

(Ord. 68-09. Passed 11-17-09.)

(1) For failure to pay taxes due, other than taxes withheld, one and one-half percent (1 1/2%) per month or fraction thereof, or twenty-five dollars (\$25.00) whichever is greater.

(2) For failure to remit taxes withheld or required to be withheld from employees; three percent (3 %) per month or fraction thereof or twenty-five dollars (\$25.00) whichever is greater.

(3) Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).

(Ord. 73-05. Passed 12-6-05.)

(4) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year, ten dollars (\$10.00).

(Ord. 68-09. Passed 11-17-09.)

(5) No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

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

(c) These provisions also cover all taxes deducted by an employer or required to be deducted and withheld by an employer and remaining unpaid after they become due.

(Ord. 73-05. Passed 12-6-05.)

181.16 EXEMPTIONS.

(a) The provisions of this chapter shall not be construed to tax:

- (1) The military pay or allowances of members of the Armed Forces of the United States and members of their reserve components, including the Ohio National Guard;
- (2) 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;
- (3) Pensions and disability benefits;
- (4) Personal earnings of any natural person under eighteen years of age;
- (5) Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service;
- (6) Proceeds of insurance, annuities, Workers' Compensation insurance, compensation for damages for personal injury, and like reimbursements, not including damages for loss of profits and wages;
- (7) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations:
 - A. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
 - B. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (8) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business);
- (9) Alimony;
- (10) Compensation for damage to property by way of insurance or otherwise;
- (11) Interest and dividends from intangible property;
- (12) Personal earnings of any natural person under eighteen years of age;
- (13) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code;
- (14) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality;
- (15) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve 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 service 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.

(16) The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 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 this chapter, "combined company", "electric company" and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code;

(17) An S corporation shareholder's distributive share of net profits or losses of the S corporation;

(18) Generally, the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

(b) The Tax Commissioner shall prescribe the format and make available the approved form by which an exemption may be claimed.

(c) For residents who may be exempt from filing, an exemption form filed with the Tax Commissioner shall be claimed effective year-to-year without further filing, provided that the basis authorized by this section shall remain unchanged and valid.

(Ord. 73-05. Passed 12-6-05.)

181.17 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every resident individual who received taxable income for work done or services performed or rendered outside the Municipality, if it is made to appear that he has paid a municipal income tax or excise tax based on income, on such taxable income in another municipality shall be allowed a credit for the amount so paid by him or in his behalf in such other municipality, this credit to be applied only to the extent of the tax assessed by this chapter, by reason of such taxable income earned in such other municipality where such tax is paid.

(Ord. 73-05. Passed 12-6-05.)

181.18 CONTRACT PROVISIONS.

No contract on behalf of the Municipality for works or improvements of the Municipality shall be binding or valid unless such contract contains the following provision: "Said hereby further agrees to withhold all Municipal income taxes due or payable under the provisions of Chapter [181](#) of the Whitehall Codified Ordinances, for wages, salaries and commissions paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such Municipal income taxes due under said chapter for services performed under this contract."
(Ord. 73-05. Passed 12-6-05.)

181.19 ALLOCATION OF INCOME TAX MONIES RECEIVED.

The monies collected under the provisions of this chapter shall be deposited in the General Fund, and such monies shall be disbursed for the following purposes and in the following order:

(a) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this chapter and the cost of establishing the Income Tax Division and administering and enforcing the provisions thereof.

(b) The balance of such monies, after providing for the requirements in subsection (a) hereof shall be allocated into the General Fund of the Municipality.

(Ord. 73-05. Passed 12-6-05.)

181.20 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the Whitehall City 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. 71-00. Passed 12-19-00.)

181.21 MANDATORY REGISTRATION OF RESIDENTS, TENANTS, CONTRACTORS AND EMPLOYEES.

(a) Each new resident of the Municipality shall register with the Tax Commissioner of the Municipality to become subject to the Whitehall City income tax within sixty days of residence in the City.

(b) Each owner, or the duly designated agent thereof, of one or more units of real property located within the Municipality and which are rented or available for rent as of January 1, 1996, and thereafter, shall submit twice yearly to the Tax Commissioner or the designee thereof, on or before January 20th and again, on or before July 20th of each year a list of tenants presently occupying those rental units and those units vacant. Any person who violates this subsection (b) shall be subject to a fine of five dollars (\$5.00) a day for each and every day they remain in violation, up to a maximum of seventy-five dollars (\$75.00).

(c) All employers, contractors or subcontractors who do work in the Municipality shall register with the Tax Commissioner. The Tax Commissioner may request a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the Municipal income tax. Any person who violates this subsection (c) shall be subject to a fine of five dollars (\$5.00) a day for each and every day they remain in violation, up to a maximum of three hundred dollars (\$300.00).

(Ord. 85-2010. Passed 12-21-10.)

181.22 BOARD OF INCOME TAX REVIEW.

(a) A Board of Review, hereinafter the Board, consisting of a chairman and two other resident individuals each to be appointed by the Auditor is hereby created. Said Board shall hear appeals as provided in this section.

(b) Whenever the Tax Administrator issues a decision regarding a Municipal income tax obligation that is subject to appeal as provided in this section, the Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(c) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Municipality the required returns or other documents pertaining to the Municipal income tax obligation at issue in the decision may appeal the decision to the Board created pursuant to this section by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Administrator issues the decision complained of.

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

(e) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision. The taxpayer or the Tax Administrator may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(f) The Board shall adopt rules governing its procedures and shall keep a record of its transaction. Such records are not public records available for inspection under Ohio R. C. 149.43.
(Ord. 73-05. Passed 12-6-05.)

181.99 VIOLATIONS AND PENALTIES.

(a) Any natural person subject to the provisions of this chapter who fails, neglects or refuses to make any return or declaration, or any employer who fails, neglects or refuses to deduct and withhold the taxes or pay the taxes imposed by this chapter, or any taxpayer who fails, neglects or refuses to pay the tax, interest or penalties imposed by this chapter, or any natural person who refuses to permit the Tax Commissioner or his duly authorized agent or employee to examine the books, records and papers of a taxpayer, or any natural person who knowingly makes an incomplete, false or fraudulent return or who attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest, under this chapter shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than thirty days, or both, for the first offense, and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days or both, for a second or subsequent offense. The failure of an employer or taxpayer to receive or procure a return or declaration form shall not excuse him from making a return or declaration or paying the tax levied under this chapter.

(Ord. 68-09. Passed 11-17-09.)

(b) When a corporation or any organization other than a natural person is convicted of an offense pursuant to this chapter, it shall be fined not more than one thousand dollars (\$1,000) for the first offense and shall be fined not more than five thousand dollars (\$5,000) for a second or subsequent offense. (Ord. 71-00. Passed 12-19-00.)

181.991 CORPORATIONS OR OTHER ORGANIZATIONS; VIOLATIONS AND PENALTIES.

(a) An officer, agent or employee of a corporation or other organization may be prosecuted for an offense committed by such corporation or other organization for an offense committed by such corporation or other organization if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

(1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility.

(2) He has primary responsibility to discharge a duty imposed on the organization by law and such duty is not discharged.

(b) When a person is convicted of an offense under any of the conditions of subsection (a)(1) or (a)(2) hereof, he is subject to the same penalty as if he had acted in his own behalf.

(Ord. 71-00. Passed 12-19-00.)