

## CHAPTER 193: MUNICIPAL INCOME TAX

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### § 193.01 ADOPTION OF TAX RULES AND REGULATIONS BY REFERENCE.

The municipality hereby adopts and incorporates by reference Resolution 1971-58, passed November 22, 1971, which establishes rules and regulations for the administration and enforcement of the municipality's income tax ordinance as set forth in this chapter. Copies of Res. 1971-58 are on file in the office of the City Clerk. (Res. 1971-58, passed 11-22-71)

### § 193.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) **ASSOCIATION.** A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

(B) **ADJUSTED FEDERAL TAXABLE INCOME.** 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 of intangible income deducted under division (B)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in § 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 § 1221 or § 1231 of the Internal Revenue Code.

(4) (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income or gain is income or gain directly relate to the sale, exchange or other disposition of an asset as described in § 1221 or § 1231 of the Internal Revenue Code.

(b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain as described in § 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 real estate investment trust and regulated investment company, add all 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 other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense.

(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 for an owner or owner-employee shall not be allowed as a deduction.

Nothing in division (B) of this section 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.

**(C) BUSINESS.** An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, limited partnership, corporation, association or any other entity.

**(D) CORPORATION.** A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency and any entity electing to be taxed as a corporation for federal income tax purposes under the Internal Revenue Code.

**(E) C CORPORATION.** A corporation that has not made an election under subchapter S of Chapter 1 of the Internal Revenue Code for its taxable year.

**(F) COMPENSATION.** Includes, but is not limited to salaries, wages, vacation pay, sick pay, commissions, bonuses, tips severance pay, supplemental unemployment pay, or any other remuneration, that is paid to or constructively received by the recipient, and whether paid in cash or in property. Any portion of gross wages which may be deferred or deducted for federal income tax purposes under the Internal Revenue Code are still included in compensation for purposes of this chapter.

**(G) DISREGARDED ENTITY.** An entity which is disregarded as an entity separate from its owner for federal income tax purposes under the Internal Revenue Code.

**(H) EMPLOYEE.** An individual as defined in § 3121 (d) of the Internal Revenue Code.

**(I) EMPLOYER.** An individual, co-partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission

or other compensation basis.

**(J) FISCAL YEAR.** An accounting period of twelve (12) months or less ending on any day other than December 31. Only fiscal years accepted for reporting federal income tax under the Internal Revenue Code may be used for Municipal Income Tax.

**(K) FORM 2106.** Internal Revenue Service Form 2106 or form 2106-EZ filed by taxpayer pursuant to the Internal Revenue Code.

**(L) INCOME TAX DEPARTMENT.** The employees of the City Auditor's Office responsible for the administration and enforcement of this chapter.

**(M) INTANGIBLE INCOME.** 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 as defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation.

**(N) INTERNAL REVENUE CODE.** The Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

**(O) LIMITED LIABILITY COMPANY.** A limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

**(P) MUNICIPAL INCOME TAX.** The tax levied by § 193.03 of this chapter.

**(Q) NET PROFITS.**

(1) For taxable years beginning before January 1, 2004, the net gain from the operation of a business, profession or enterprise after provision for all expenses incurred in the conduct thereof, either paid or accrued in accordance with the method of accounting regularly employed by the taxpayer for federal income tax purposes, without deduction of federal taxes based on income, without deducting taxes imposed by this chapter, and otherwise adjusted for the requirements of this chapter. For tax years beginning on and after January 1, 2003, no deduction will be allowed for other taxes (including, but not limited to, federal, state and municipal taxes) based on income, and compensation paid to the owner of an unincorporated entity.

(2) For taxable years beginning on or after January 1, 2004:

(a) Net profit for a taxpayer other than an individual means adjusted federal taxable income.

(b) Net profit for an individual means the individual's profit, other than amounts described in § 193.16 of this chapter, required to be reported on schedule C, schedule E, or schedule F. Net profits will not include qualifying wages earned by an individual. Net profits will include compensation for personal services received by an individual as a non-employee whether reported on schedule C or not.

(c) In the case of an owner's distributive share of net profits from a pass-through entity (other than S corporation), the adjusted federal taxable income of the pass-through entity will be used to determine net profits.

**(R) NON-RESIDENT.** An individual, co-partnership, limited partnership, corporation, association or other entity domiciled outside the municipality.

**(S) OTHER ENTITY.** Any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the municipality from business conducted within the municipality.

**(T) PASS THROUGH ENTITY.** A partnership, S corporation, limited liability company, or any class of entity (other than sole proprietorships) the income or profits from which are given pass-through treatment under the Internal Revenue Code.

**(U) PERSON.** Includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

**(V) QUALIFYING WAGES.**

(1) Wages, as defined in § 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(a) Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in § 125 of the Internal Revenue Code.

(b) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange or other disposition of a stock option, or other disposition of stock purchased under a stock option. Division (V) (1) (b) (ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in § 401(k) or 457 of the Internal Revenue Code. Division (V) (1) (b) (iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in § 3402 (o) (2) of the Internal Revenue Code and not included in wages.

***Qualifying wages are expressly defined to include all income derived from prizes, awards, gaming, wagering, lotteries or other similar games of chance by a resident from whatever source and from anywhere derived;***

(2) Except for the exemptions from wages provided in Internal Revenue Code § 3121 (a), no other provisions of the Internal Revenue Code (such as Internal Revenue Code § 3121 (b)) shall be construed to exclude remuneration paid by an employer to an employee from the definition of “qualifying wages” for the purposes of this chapter (Ord. 2012-52, passed 7-23-2012)

**(W) RESIDENT.** An individual, co-partnership, limited partnership, corporation, association or other entity domiciled in the municipality.

**(X) S CORPORATION.** A corporation that has made an election under subchapter S of Chapter 1 of the Internal Revenue Code for its taxable year.

**(Y) SCHEDULE C.** Internal Revenue Service Schedule C or Schedule C-EZ filed by an individual taxpayer pursuant to the Internal Revenue Code.

**(Z) SCHEDULE E.** Internal Revenue Service Schedule E filed by an individual taxpayer pursuant to the Internal Revenue Code.

**(AA) SCHEDULE F.** Internal Revenue Service Schedule F filed by an individual taxpayer pursuant to the Internal Revenue Code.

**(BB) SOLE PROPRIETORSHIP.** Any business, including the renting of property, conducted by an individual or by an Individual through his/her disregarded entity.

**(CC) STATUTORY EMPLOYEE.** An individual defined in § 3121 (d) (3) of the Internal Revenue Code.

**(DD) STATUTORY STOCK OPTION.** A stock option plan described in § 422 or § 423 of the Internal Revenue Code.

**(EE) TAX COMMISSIONER.** The employee of the City Auditor's Office responsible for the operation of the Income Tax Department per the personnel classification report (Yarger Report).

**(FF) TAXABLE YEAR.** The corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

**(GG) TAXPAYER.** A person subject to the Municipal Income Tax. "Taxpayer" does not include any person that is a disregard 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. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000; Ord. No. 2002-119, passed 12-09-2002; Ord. No. 2003-110, passed 11-24-2003)

### **§ 193.03 LEVY OF TAX; RATE ESTABLISHED.**

(A) To provide funds for the purpose of general municipal operations and other municipal purposes of the municipality, there be and hereby is levied a tax upon those classes of earnings and income set forth in § 193.04 at the rate of .85% from the effective date of this chapter through December 31, 1971, and at the rate of 1% from and after January 1, 1972; and salaries, wages, commissions and other compensation, and net profits referred to in § 193.04 earned on and after January 1, 1972 shall be subject to such 1% tax.

(B) To provide additional funds for the municipal operations as set forth hereafter, there be and is hereby levied an additional income tax upon those classes of earnings and income as are set forth in § 193.04 of this chapter at the rate of .275% for the Police Department; at the rate of .375% for the fire department; at the rate of .05% for street and alley improvements; at the rate of .05% for municipal capital improvements; the total of which is .75%, from and after the first day of January, 1989. Ordinance 1988-58 was approved by the voters at the November 8, 1988 General Election as per the certification of the Marion County Board of Elections. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1988-92, passed 11-28-88)

### **§ 193.04 IMPOSITION OF TAX.**

The tax levied pursuant to § 193.03 of this chapter and any amendment to such § 193.03 shall be levied upon the following:

(A) (1) For taxable years ending before January 1, 2004 on compensation earned by resident individuals of the municipality.

(2) For taxable years beginning on or after January 1, 2004, on all qualifying wages earned by resident individuals of the municipality.

(B) (1) For taxable years ending before January 1, 2004, on all compensation earned by non-resident individuals of the municipality, for work done or services performed or rendered in the municipality.

(2) For taxable years beginning on or after January 1, 2004, on all qualifying wages earned by non-resident individuals of the municipality, attributable to work done or services performed or rendered in the municipality.

(C) On the net profits of sole proprietorships owned by residents.

(D) On the net profits attributable to the municipality of sole proprietorships owned by non-residents derived from work done or services performed or rendered or other activities conducted in the municipality.

(E) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a resident owner's distributive share of the net profits of a pass-through entity (other than an S corporation).

(F) If the tax has not been levied on the pass-through entity pursuant to paragraph (I) of this section, on a non-resident owner's distributive share of the net profits of a pass-through entity (other than an S corporation) attributable to the municipality derived from work done or services performed or rendered and business or other activities conducted within the municipality.

(G) On the net profits earned of all C corporations and S corporations derived from work done or services performed or rendered and business or other activities conducted in the municipality.

(H) On the net profits earned of any entity not enumerated in paragraphs (C), (D), (E) (F) and (G) of this section from work done or services performed or rendered and business or other activities conducted in the municipality.

(I) For the taxable years ending on or before December 31, 2002,

(1) On the net profits attributable to the municipality, earned by all resident unincorporated business, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the municipality.

(2) On the net profits attributable to the municipality earned of all non-resident unincorporated business, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the municipality.

(J) Disregarded entities will be taxed as if the disregarded entity and its owner were one and the same.

(K) For purposes of subsections (D), (F), (g), (H), and (I)(2) of this section, the portion of the net profit of a taxpayer or pass-through entity to be allocated as having been made within and attributable to the municipality shall be determined by multiplying the net profit of the taxpayer or the pass-through entity by a business allocation percentage to be determined by:

(1) Ascertaining the percentage which the average original cost of the taxpayer's real and tangible personal property within the municipality during the period covered by its report bears to the average original cost of all the taxpayer's real and tangible personal property wherever situated during such period. As used in this subsection, 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) Ascertaining the percentage which the gross sales of the taxpayer within the municipality plus the gross credits or charges for work done and performed or services rendered in the municipality, bears to the total gross sales wherever made, plus the total gross credits or charges for work done and performed or services rendered. "Within the City" sales shall be deemed to include:

(a) All sales of tangible personal property delivered to purchasers within the municipality if shipped or delivered from an office, store, warehouse, factory, or place of storage, located within the municipality;

(b) All sales of tangible personal property delivered to purchasers within the municipality,

even though transported from a point outside the municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the municipality, and the sale is directly or indirectly the result of the taxpayer's activities within the municipality in soliciting or promoting sales.

(c) All sales of tangible personal property shipped from an office, store, warehouse, factory or place of storage within the municipality to purchasers in other cities or villages, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales in such other cities or villages, or even if it is so engaged, if the sales are not directly or indirectly attributable to such activities.

(d) Gross sales shall be considered to mean gross receipts from sales in the case of a "cash basis" taxpayer;

(3) Ascertaining the percentage which the total wages, salaries, and other personal service compensation, similarly computed during such period, of employees within the City, bears to the total wages, salaries, and other personal service compensation, similarly computed, during such period of all the taxpayer's employees within and without the City, excluding compensation described in § 193.16 (N) of this chapter; and

(4) Adding together the percentages determined in accordance with subsections (1) through (3) above, or such of the aforesaid percentages as shall be applicable to the particular taxpayer's business, and dividing the total so obtained by the number of percentages used in deriving said total. Provided, however, that in the event a just and equitable result cannot be obtained by the use of the factors set forth above, the City Auditor shall have the authority to substitute factors calculated to effect a fair and proper allocation. If the taxpayer's books and records provide with reasonable accuracy what portion of the taxpayer's business was attributable to activities within the Municipality, the taxpayer may use such books and records to provide a separate accounting to determine income subject to the Municipal Income Tax.

(L) If a taxpayer's income includes income against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's form 2106, the taxpayer may deduct expenses reported on form 2106 in the following manner:

(1) If the expenses giving rise to the deduction were incurred while a resident, the total expenses reported on form 2106 shall be deducted from taxable income.

(2) If the expenses giving rise to the deduction were incurred while a non-resident, the taxpayer shall deduct only the portion of the expenses on form 2106 directly related to the income subject to the tax imposed by this chapter. In the absence of actual records or a separate accounting, the taxpayer may calculate the deduction by:

(a) ascertaining the percentage which the income earned within the municipality against the expenses are claimed bears to the total income earned and without the municipality against which the expenses are claimed, and

(b) multiply the percentage obtained in subsection (a) by the total deduction reported on form 2106.

(M) If the taxpayer is a statutory employee whose income includes qualifying wages against which the taxpayer has taken a deduction for federal income tax purposes as reportable on the taxpayer's schedule C instead of form 2106, the taxpayer may deduct expenses reported on schedule C in the same manner as expenses reported on form 2106 are deducted in division (L) of this section. (Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000; Am. Ord. 2002-119, passed 12-9-2002; Ord. 2003-110, passed 11-24-2003)

#### **§ 193.05 LEVIED, COLLECTED AND PAID.**

The Municipal Income Tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on or after January 1, 1971, and with respect to the net profit of businesses,

professions and other activities earned on and after January 1, 1971. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1971, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis. (Ord. 1971-130, passed 7-26-71) Penalty, see § 193.99

### **§ 193.06 RETURN AND PAYMENT OF TAX.**

(A) Each taxpayer whose earnings or profits are subject to the Municipal Income Tax shall, on the 15th day of the fourth month following the end of a taxable year, make and file a final return *whether or not a tax be due thereon* with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the aggregate amount of salary, wages, or other compensation and net profits earned by him/her during the preceding year or period and subject to said tax, together with other pertinent information as the Income Tax Department may require. The return shall also show the amount of the tax imposed on such earnings and profits/losses. Taxpayers may file a substitute tax returns provided the substitute return includes all the information and supporting documents required by the Income Tax Department.

(B) The taxpayer making the said return shall, by the 15th day of the fourth month following the end of a taxable year, pay to the Income Tax Department the amount of taxes shown as due thereon. Any portion of said tax shall have been paid by such taxpayer pursuant to the provisions of §§ 193.07 and 193.08 of this chapter, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable on the 15th day of the fourth month following the end of a taxable year.

(C) (1) Deduction for business and rental losses may be claimed only to the extent of the profit on each tax return. Deduction for business and rental losses on each tax return may be consolidated in the case of one or more businesses and/or one or more rental properties to arrive at a combined profit or loss.

(2) Loss deduction shall not be transferred from one taxable year to another.

(3) Business and rental losses will not be deducted against compensation or qualifying wages taxed under § 193.04 (A) and § 193.04 (B) of this chapter.

~~(D) The return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages or compensation of any employee, and paid by him/her or them to the City Treasurer, shall be accepted as the return required of any employee whose sole income subject to the Municipal Income Tax is such salary, wages or compensation.~~

(E) (1) for taxable years beginning before January 1, 2004, upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return for a period of not more than six months or not more than 30 days beyond any extension requested of and granted by the Bureau of Internal Revenue for the filing of the Federal Income Tax Return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall include a remittance to the Income Tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not be extended.

(2) For taxable years beginning on or after January 1, 2004, upon written request of the taxpayer, the Income Tax Department may extend the time for filing the annual return. A taxpayer may request an extension by filing a copy of the federal filing extension with the Income Tax Department. Extension requests shall include a remittance to the Income tax Department of any remaining tax which the taxpayer estimates is due. The due date for payment of the tax shall not

be extended. The extended due date shall be the 1st day of the month following the month to which the due date of the federal income tax return has been extended.

(F) Any affiliated group of corporations filing a consolidated return for federal income tax purposes pursuant to § 1501 of the Internal Revenue Code may file a consolidated return for the same tax reporting period with the municipality.

(G) (1) For taxable years ending after December 31, 2002, each pass-through entity (except S corporations) conducting business within the municipality shall, on the 15th day of the fourth month following the end of a taxable year, make and file an information return with the Income Tax Department on a form obtainable from the Income Tax Department, setting forth the net profits/ losses earned by the entity during the preceding year or period and subject to tax, together with other pertinent information as the Income Tax Department may require. The return shall also include a copy of the federal schedule K-1's showing each owner's distributive share of the entity's income. Taxpayers may file substitute information returns provided the substitute return includes all the information and supporting documents required by the Income tax Department. The entity may request an extension of time to file the return pursuant to paragraph (E) of this section. The entity will be subject to the late filing penalty in § 193.12 (C).

(2) (i) For taxable years ending after December 31, 2002, a pass through entity (except S corporation) may elect to pay on behalf of the owners of the entity the tax due on the net profits of the entity earned within the municipality. The election may be made by the entity submitting the payment with the information return or by the entity submitting estimated tax payments under § 193.08.

(ii) The electing entity will be subject to the interest and penalty provisions of § 193.12.

(iii) The electing entity will be subject to the estimated tax payment requirements for non-individuals of § 193.08. § 193.08 (F) will only apply to the entity and its owners in the first taxable year the entity conducts business within the municipality. If the tax was paid by the owners in the prior year and the entity elects to pay the current year tax directly, the prior year tax liability for the entity will be determined by calculating the tax due from the entity's prior year's information return. If the entity elected to pay the tax in the prior year and owners pay the current tax year, the prior year tax liability for the owners will be determined by calculating the tax due on their distributive share of the entity's prior year income.

(iv) Each owner will be liable for his/her/its distributive share of any unpaid tax, penalty and interest of the entity.

(v) If the owner has other business activities subject to the municipal income tax, the owner's distributive share of income from and tax paid by the electing entity shall be included on the owner's return.

(H) Any group of S corporations filing as a single S corporation for federal income tax purposes pursuant to § 1361 (b)(3) of the Internal Revenue Code shall file as a single S corporation for the same reporting period with the municipality.

(Ord. 1971-130, passed 7-26-71; Am. Ord. 1981-59, passed 6-8-81; Ord. 2000-131, passed 10-23-2000; Am. Ord. 2002-119, passed 12-9-2002; Ord. No. 2003-110, passed 11-24-2003; Ord. No. 2012-26, passed 4-23-2012) Penalty, see § 193.99

#### **§ 193.07 COLLECTION AT SOURCE.**

(A) Each employer within the municipality who employs within the municipality one or more persons on a

salary, wage, commission or other compensation basis, excluding exempted incomes set forth in § 193.16 of this chapter, shall deduct the Municipal Income Tax at the time of the payment of such salary, wage, commission or other compensation due by the said employer to the said employee and shall make a return and pay to the City Treasurer the amount of taxes so deducted as follows:

- (1) For the three months ending March 31st, on or before April 30th;
- (2) For the three months ending June 30th, on or before July 31st;
- (3) For the three months ending September 30th, on or before October 31st;
- (4) For the three months ending December 31st, on or before January 31st.

(B) Those employers, whose payment of withheld taxes that are determined to exceed \$4,000 annually, based on the preceding December 31, year-end report, shall make a return and pay to the City Treasurer the amount of the taxes on a monthly basis. These taxes withheld from their employees shall be payable on or before the last day of the month following the month of collection. Nothing in the above is intended to preclude any employer from placing his/her firm on the monthly reporting system or from payment of withheld taxes in a more rapid sequence than indicated above. It will be the responsibility of the City Auditor and the task of the City Income Tax Department to administer the program and provide each account with the necessary reporting forms not later than 20 days prior to the due dates prescribed above.

(C) Said return shall be on a form prescribed by the City Auditor and furnished by the City Treasurer. Such employer, in collecting said tax, shall be deemed to hold the same as trustee for the benefit of the municipality until payment is made by such employer to the municipality, and any such tax collected by such employer from his/her employees shall, until the same is paid to the municipality, be deemed a trust fund in the hands of such employer.

(D) (1) Except as provided in paragraph (D)(2) of this section, beginning January 1, 2001, employers not situated in the municipality whose withholding otherwise required by this section for a calendar year beginning on or after that date is \$150.00 or less will not be required to withhold the tax.

(2) For any calendar year beginning on or after January 1, 2001, employers not situated within the municipality whose withholding required by this section exceeds \$150.00 for a calendar year will be required to withhold the tax for that calendar year and the next three calendar years.

(3) Division (D) of this section shall apply only to taxable years beginning on or after January 1, 2001, and ending on or before December 31, 2003.

(E) For taxable years beginning on or after January 1, 2004, an employer is required to deduct the Municipal Income Tax only from qualifying wages.

(F) An employer is not required to make any withholding with respect to an individual's disqualifying disposition of a statutory 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 was issued.

(G) (1) An employee is not relieved from liability for the Municipal Income 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 Municipal Income Tax.

(2) The failure of an employer to remit the Municipal Income Tax withheld relieves the employee from liability for the Municipal Income Tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1981-59, passed 6-8-81; Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003)

**§ 193.08 DECLARATIONS.**

(A) As used in this Section:

(1) "Tax Liability" means the taxpayer's liability for the tax imposed by this chapter for a taxable year prior to applying any credits or estimated tax payments under this section, or taxes withheld under § 193.07 and/or credit for taxes paid to another municipality under § 193.09.

(2) "Required Amount" means the lesser of:

(a) ninety percent (90%) of the current taxable years tax liability, or

(b) one hundred percent (100%) of the prior taxable years tax liability as shown on the return filed under § 193.06 by the taxpayer for the preceding year. If such return does not reflect a twelve-month period, the prior years tax liability shall be annualized by dividing the prior taxable years tax liability by the fraction of a year reflected by such return.

(B) For taxable years beginning on or after January 1, 2003, individuals whose estimated tax liability less taxes withheld under § 193.07 and/or credit for taxes paid to another municipality under § 193.09 is two hundred dollars (\$200.00) or more must remit estimated tax payments for the current taxable year as follows:

(1) twenty-five percent (25%) of the required amount by April 15 of the current taxable year.

(2) fifty percent (50%) of the required amount by July 31 of the current taxable year.

(3) seventy-five percent (75%) of the required amount by October 31 of the current taxable year.

(4) one hundred percent (100%) of the required amount by January 31 of the year following the current taxable year.

(C) Any tax withheld under § 193.07 for the taxable year and any credit for taxes paid to other municipalities under § 193.09 shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed in § 193.08 (B).

(D) Beginning January 31, 2003, taxpayers who are not individuals whose estimated tax liability is two hundred dollars (\$200.00) or more must remit estimated tax payments for the current taxable year as follows:

(1) twenty-five percent (25%) of the required amount by fifteenth day of the fourth month of the taxpayers current taxable year.

(2) fifty percent (50%) of the required amount by the fifteenth day of the sixth month of the taxpayers current taxable year.

(3) seventy-five percent (75%) of the required amount by the fifteenth day of the ninth month of the taxpayers current taxable year.

(4) one hundred percent (100%) of the required amount by the fifteenth day of the twelfth month of the taxpayers current taxable year.

(E) Estimated payments not made by the due date shall be charged interest at the rate prescribed in § 193.12. Interest will be calculated from the due date of the payment to the earlier of:

(1) the date of the estimated payment is made, or

(2) the due date, excluding extensions, for filing the return under § 193.07.

(F) No estimated payments will be required the first taxable year that a taxpayer is required to file a return under § 193.06. (Ord. 1971-130, passed 7-26-71; Am. Ord. 2002-119, passed 12-9-2002; Ord. No. 2003-110, passed 11-24-2003) Penalty, see § 193.99

### **§ 193.09 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

(A) Every resident individual taxpayer who receives net profits, salaries, wages, commissions or other personal service compensation, for work done, or services performed or rendered outside of the municipality, if it be made to appear that he/she has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality(ies), shall be allowed a **50 % (fifty percent)** credit on the Municipal Income Tax of the amount so paid by him/her or in his/her behalf to such other municipality. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such other municipality(ies) where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the municipal income tax paid to such other municipality(ies). (Ord. 2005-80, passed 10-24-2005; Ord. 2012-27, passed 4-23-2012)

(B) (1) As used in division (B) of this section:

(a) Nonqualified deferred compensation plan means a compensation plan described in § 3121 (v)(2)(C) of the Internal Revenue Code.

(b) (i) Except as provided in division (B)(1)(b)(ii) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(ii) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (B)(1)(b)(i) of this section computed without regard to division (B)(1)(b)(ii) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(iii) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(c) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to the municipality with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the Municipal Income Tax paid each year with respect to the nonqualified deferred compensation plan.

(2) (a) Except as provided in division (B)(3) of this section, if a taxpayer has paid Municipal Income Tax in one or more taxable years on compensation deferred pursuant to a nonqualified deferred compensation plan and the taxpayer sustains a qualifying loss with respect to such nonqualified plan, the taxpayer shall be allowed a refundable credit for each qualifying loss.

(b) If a taxpayer has paid income tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the credit shall be calculated on the basis the proportion the total Municipal Income tax paid bears to the income tax paid to all municipal corporations with respect to the nonqualified deferred compensation plan.

(c) In no case shall the credit exceed the cumulative Municipal Income Tax paid for all taxable years by the taxpayer with respect to the nonqualified deferred compensation plan.

(3) The credit allowed under division (B) of this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(i) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(ii) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(C) A taxpayer shall be allowed a credit against the Municipal Income Tax for income tax paid to a joint economic development zone created under §715.691 or a joint economic development district created under §715.70, §715.71 or §715.72 of the Ohio Revised Code. The credit shall not exceed the tax assessed by the Municipal Income Tax on such net profit, salary, wages, commission or compensation earned in such joint economic development zone or joint economic development district where such tax is paid. Credit will not be allowed to the extent the individual is entitled to a refund of the income tax paid to such joint economic development zone or joint economic development district.

(D) If income tax or withholding tax is erroneously paid to another municipality(ies) and refund of the erroneous payment by the other municipality(ies) is barred by the passage of time, the taxpayer or withholding agent will be given credit for the erroneous payment. The credit shall not exceed the tax assessed by the Municipal Income Tax on the income or wages on which the erroneous payment was made. (Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003; Ord. 2012-27, passed 4-23-2012)

### **§ 193.10 DUTIES OF CITY AUDITOR; CITY TREASURER.**

(A) The Municipal Income Tax shall be administered by such deputies and clerks within the City Auditor's Department as may be from time to time determined by the Council of the municipality.

(B) The City Auditor shall prescribe the form of accounts and reports to be rendered to his/her office, the form and method of keeping accounts within the income tax office. The City Auditor shall be charged with the internal audit of all accounts and returns, including the correction of the returns.

(C) The City Treasurer shall demand, collect and receive the Municipal Income Tax. The City Treasurer shall keep an accurate record showing the amount received from each taxpayer and the date of said receipt. The City Treasurer shall make a written report to Council each quarter of all monies collected hereunder during the preceding quarter. (Ord. 1971-130, passed 7-26-71)

### **§ 193.11 INQUISITORIAL POWERS; DISCLOSURE OF CONFIDENTIAL INFORMATION PROHIBITED.**

(A) The City Auditor, or any authorized employee, is authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is directed and required to furnish to the City Auditor or his/her duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are

authorized.

(B) The City Auditor, or his/her duly authorized agent or employee, is authorized to examine any person, employee or employees under oath concerning any income which was or should have been returned for taxation and for this purpose may compel the production of books, papers and records and the attendance of all persons before him/her, whether as parties or witnesses, wherever he/she believes such persons have knowledge of such income. The refusal of such examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

(C) Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the municipality for official purposes.

(D) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for the official purposes of enforcement of this chapter and except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars \$500 or imprisoned for not more than six months in the county jail, or both such fine and imprisonment for such offense. In addition to the above penalties, any employee of the municipality who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the municipality.

(E) If a taxpayer has income on which an apparently insufficient amount of tax has been paid and a return as prescribed in § 193.06 has not been filed, the Income Tax Department may assess the tax, penalty and interest due against the taxpayer after providing two notices to the taxpayer. Notices shall indicate the source and amount of income on which insufficient tax has been paid. Notices shall be mailed to the taxpayer's last known address by regular mail. Notices, including the assessment notice, shall be mailed at least fifteen (15) calendar days apart. The late filing penalty on assessments shall be the maximum Fifty Dollar (\$50.00) penalty. (Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000)  
Penalty, see § 193.99

### **§ 193.12 INTEREST ON UNPAID TAXES.**

(A) Beginning December 1, 2000, the Municipal Income Tax, including taxes withheld from wages by an employer, remaining unpaid after it has become due, shall bear interest on the amount of the unpaid tax at the rate of ten percent (10%) per annum. Initially, for interest not yet computed, partial years shall be prorated in whole and/or half months. Beginning January 1, 2002, the rate of interest for unpaid taxes will be adjusted annually as provided in paragraph (B) of this section.

(B) As used in this section, "federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of three years or less, as determined under section 1274 of the Internal Revenue Code for July of the current year. By the fifteenth day of October of each year, the Tax Commissioner shall determine the federal short-term rate. The rate determined by the Tax Commission, rounded to the nearest whole number percent, plus three percent shall be the interest rate per annum used in computing interest for the following year.

(C) A taxpayer filing a return required under § 193.06 of this Ordinance after the due date, including extensions, shall be liable for a late filing penalty. The penalty shall be five dollars (\$5.00) per month or any part of a month that the return is late. The maximum penalty per return will be Fifty Dollars (\$50.00). Taxpayers under the age of 18 years shall be liable for a late filing penalty and interest of no more than five dollars (\$5.00) for each return filed late.

(D) A withholding agent filing a return required under § 193.07 of this Ordinance after the due date shall be liable for a late filing penalty of ten dollars (\$10.00) for each return filed late.

(E) Taxpayers, including withholding agents, paying tax after the prescribed due date will be subject to a late payment penalty of Five Dollars (\$5.00). Only one late payment penalty will be assessed per taxable year or withholding period. The late payment penalty will not be assessed on taxable years or withholding periods on which a late filing penalty has been assessed.

(F) The Tax Commissioner may compromise penalties and interest at this discretion. The Tax Commissioner will issue written guidelines for the compromise of penalties and interest so that this section is administered in a uniform manner. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1982-22, passed 10-11-82; Am. Ord. 1985-115, passed 12-23-85; Ord. 2000-131, passed 10-23-2000)  
Penalty, see § 193.99

### **§ 193.13 LIMITATION PERIODS ON UNPAID TAXES AND REFUNDS.**

(A) (1) The Municipal Income Tax any penalties and interest on the Municipal Income tax shall be collectible, by suit, as other debts of like amount are recoverable. Civil actions to recover the Municipal Income Tax and penalties and interest on the Municipal Income Tax shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(2) With regard to underpayments resulting from a recomputation or redetermination, whether initiated by the Internal Revenue Service or by the taxpayer, of the taxpayer's federal taxable income that increases the taxpayer's tax liability under this Ordinance, an amended return must be filed and the additional tax paid within one hundred twenty (120) days of the final determination of the federal taxable income. The amended return will not reopen issues not directly or indirectly affected by the adjustment of the taxpayer's federal taxable income. Civil actions to recover the Municipal Income tax and penalties and interest on the Municipal Income Tax shall be brought within three (3) years of the filing of the amended return.

(B) Prosecutions for violations of this Ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of the income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

(C) A claim for a refund of the Municipal Income Tax must be filed:

(1) within three (3) years of the overpayment.

(a) Employees who have taxes withheld under § 193.07 of this chapter will be deemed to have paid the tax withheld on the due date, including any valid extension of time, for filing a return for that taxable year under § 193.06 of this chapter.

(b) Estimated tax payments under § 193.08 of this chapter will be deemed paid on the due date, including any valid extension of time, for filing a return for that taxable year under § 193.06 of this chapter provided the payment is received on or before said due date.

(c) Employers who have withheld taxes under § 193.07 of this chapter will be deemed to have paid the tax withheld on the due date for filing an annual reconciliation as provided by Resolution 1971-58, Article XIII (§ 193.01) provided the payment is received on or before said due date.

(2) With regard to overpayments resulting from a recomputation or redetermination, by the Internal Revenue Service or due to litigation initiated by the taxpayer, of the taxpayer's federal taxable income that reduces the taxpayer's tax liability under this Ordinance, the refund claim must be filed within one hundred twenty (120) days of the final determination of the federal taxable income. A refund claim filed under division (C)(2) of this section shall claim a refund based only on those items of the taxpayer's annual return that are affected directly or indirectly by the changes to the taxpayer's federal taxable income. It shall not reopen issues

not directly or indirectly affected by the taxpayer's federal taxable income. (Ord. 1971-130, passed 7-26-71; Ord. 2000-131, passed 10-23-2000) Penalty, see § 193.99

**§ 193.14 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this chapter shall be disbursed each calendar year for the period from January 1, 1998 in the following order, to wit:

(A) Debt Service Fund.....Variable (the amount necessary to cover the annual G.O. Debt Retirement and related bond registrar expenses: not to exceed \$180,000)

(B) Street, Construction, Maintenance and Repair Fund .....5% of Unvoted Municipal Income Tax (For street and alley construction, reconstruction, maintenance, repairs, resurfacing, seal treatment, traffic control devices, sidewalks, curbs, gutters, sewers, drains, and other appurtenant improvements.)

(C) SCMR.....5% of Unvoted Municipal Income Tax

In 2003 an additional \$300,000.00 of unvoted municipal income tax shall be allocated for street resurfacing projects; In 2005 the 5% unvoted municipal income tax shall be reduced by \$300,000.00. (For Street Resurfacing Projects Only)

(D) The balance of any monies received from income tax receipts shall be credit to the General Fund for disbursement by Order of Council. (Ord. 1971-130, passed 7-26-71; Ord. 1998-41, passed 4-27-98; Ord. 2003-60, passed 07-14-2003)

In 2012 an additional one quarter of one percent (.25%) was voted in for the municipal operations as set forth hereafter and distributed in the following order, to wit:

(A) 40% of the one-quarter of one percent for the Police Department;

(B) 40% of the one-quarter of one percent for the Fire Department;

(C) 10% of the one-quarter of one percent for dispatch services/disaster services;

(D) 10% of the one-quarter of one percent for the Provision of Street Improvements from and after the first day of January, 2013. (Ordinance 2012-54 was approved by the voters at the November 6, 2012 General Election as per the certification of the Marion County Board of Elections.)

**§ 193.15 NONAPPLICABILITY.**

This chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of City Council of the municipality to impose the Municipal Income Tax. (Ord. 1971-130, passed 7-26-71)

**§ 193.16 EXEMPTIONS.**

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

(A) The military pay or allowances of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard.

(B) Poor relief, pensions, unemployment compensation or similar payments, including disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.

(C) Alimony received.

(D) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.

(E) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

(F) 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.

(G) Gains from involuntary conversions, cancellation of indebtedness and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(H) Earnings and income of all persons under 16 years of age, whether residents or non-residents.

(I) Intangible Income as defined by §718.01(A)(4) of the Ohio Revised Code.

(J) Compensation paid under §3501.28 or §3501.36 of the Ohio Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

(K) Compensation paid to an employee of a transit authority, regional transit authority, or 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.

(L) (1) Except as provided in division (L)(2) and (L)(3) of this section, the income of a public utility when that public utility is subject to the tax levied under §5727.24 or §5727.30 of the Ohio Revised Code.

(2) Beginning January 1, 2002, the income of an electric company or combined company, as defined in § 5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code.

(3) Beginning January 1, 2004, the income of a telephone company, as defined in § 5727.01 of the Ohio Revised Code will be subject to the tax levied by this chapter subject to Chapter 5745 of the Ohio Revised Code.

(M) Items excluded from federal gross income pursuant to §107 of the Internal Revenue Code. Reimbursements or allowances in excess of actual expenses will be subject to the tax.

(N) On or after January 1, 2001, compensation paid to an individual if all of the following apply:

(1) The individual is a non-resident. (Ord. 2005-80, passed 10-24-2005)

(2) the compensation is paid for personal services performed by the individual in the municipality on twelve or fewer days in the calendar year.

(3) If the individual is an employee of another person, the principal place of business of the individual employer is located in another municipality in this state that imposes a tax applying to the compensation paid to the individual for services performed on those days, and the individual is liable to that other municipality for tax on the compensation paid for such services. (Ord. 1971-130, passed 7-26-71; Am. Ord. 1982-22, passed

10-11-82; Am. Ord. 1984-41, passed 5-14-84; Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003; Ord. 2005-80, passed 10-24-2005)

### **§ 193.17 REFUNDS.**

Should it appear that any taxpayer has paid more than the amount of the tax to which the municipality is entitled under the provisions of this chapter, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer. (Ord. 1971-130, passed 7-26-71)

### **§ 193.18 EMERGENCY MEASURE.**

This chapter is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety in the City of Marion and for the further reason that the Council, after careful and deliberate consideration of the need for and the cost of essential municipal services, has heretofore approved a budget for the year 1971 which requires additional municipal revenues to maintain such services for the safety and welfare of the city and its inhabitants, that it is necessary to provide such additional revenues by increasing the existing municipal income tax from 0.85% to 1.00%, and that provision for such increase should be immediately effective to support such 1971 budget, to permit this Council and the administrative officials of the city to develop appropriate actions and plans to implement such budget and proceed with further detailed planning of municipal operations and the financing thereof for 1971, and to permit an efficient transition from the tax of 0.85% presently in effect and continued in effect by this ordinance through December 31, 1971, to a tax of 1% imposed hereby from and after January 1, 1972, and as an emergency measure shall take effect and be in force immediately upon its approval by the Mayor, provided it receives a majority vote of two-thirds of the members elected to Council; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

### **§ 193.19 BOARD OF REVIEW.**

(A) The Board of Review, consisting of three electors of the City, one appointed by the Mayor, one appointed by the City Treasurer and one appointed by the City Director of Law, is created. No member shall be appointed to the Board of Review who is employed by the City or holds other public offices or appointments. The members of the Board of Review shall service without compensation.

(B) A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules, and shall keep a record of its transactions. Such records are not public records available for public inspection under §149.43 of the Ohio Revised Code.

(C) All hearings of the Board of Review shall be conducted privately and the provisions of Section 193.11 (D) with reference to the confidential character of information required to be disclosed by this chapter shall not apply to such matters as may be heard before the Board of Review on appeal. Hearings requested by a taxpayer before the Board of Review pursuant to this section are not meetings of a public body subject to §121.22 of the Ohio Revised Code.

(D) Any person (petitioner) dissatisfied with any ruling or decision of the Tax Commissioner which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision of the Tax Commissioner. The appeal shall be made in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner issues the decision leading to the appeal.

(E) Unless the petitioner waives a hearing, the Board of Review shall schedule a hearing within forty-five (45) days after receiving the request. The petitioner may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

(F) The Board of Review may affirm, reverse or modify the Tax Commissioner's decision or any part of

that decision, shall issue a decision on the appeal within ninety (90) days after the Board of Review's final hearing on the appeal, and the Board of Review shall notify the petitioner of its decision by ordinary mail within fifteen (15) days after issuing the decision.

(G) Any ruling or decision of the Board of Review may be appealed, as provided in § 5717.011 of the Ohio Revised Code, by the taxpayer or the Tax Commissioner to the Board of Tax Appeals or a court of common pleas as otherwise provided by law.

(H) The initial terms of the members of the Board of Review will be as follows:

Appointed by the Mayor expires December 31, 2001

Appointed by the Director of Law expires December 31, 2002

Appointed by the Treasurer expires December 31, 2003

(Ord. 2000-131, passed 10-23-2000; Ord. No. 2003-110, passed 11-24-2003)

### **§ 193.20 OHIO BUSINESS GATEWAY**

Pursuant to Ohio Revised Code § 718.051:

(A) For tax years beginning on or after January 1, 2005, a taxpayer may use the Ohio Business Gateway to:

- (1) File an income tax return and make payment of any income tax under § 193.06.
- (2) File for an extension of time to file an income return required by § 193.06.
- (3) File and make payment of estimated tax due under § 193.08.

(B) For tax years beginning on or after January 1, 2007, an employer may use the Ohio Business Gateway to file a withholding return and make payment of any withholding tax due under § 193.07. (Ord. No. 2003-110, passed 11-24-2003)

### **§ 193.21 REGISTRATION OF EMPLOYERS, CONTRACTORS AND SUBCONTRACTORS**

(A) All employers, contractors or subcontractors who do work in the City of Marion, Ohio shall register with the Tax Commissioner, on a form the Tax Commissioner prescribes, within 30 days after the first work is performed or February 15th of the year following the year the worked was performed whichever is later. Said entities shall have a continuing duty to update said information no less than annually on the anniversary date of their initial filing. The Tax Commissioner may request a list of all employees, subcontractors, contractors or others who perform work in the City of Marion, Ohio.

(B) All employers, contractors or subcontractors, in addition to any other penalties for non-compliance contained within M.C.C. 193, shall be assessed an additional penalty of \$5 per month for each month it remains non-compliant, up to a maximum of \$1,000, for failure to comply with division (A) of this section.(Ord. No. 2012-26, passed 4-23-2012)(*Renamed to Section 193.21 on May 16, 2012*)

### **§ 193.99 PENALTY.**

Any person, firm or corporation who shall fail, neglect or refuse to make any return, questionnaire or declaration required by this chapter, or any taxpayer who shall refuse to pay the Municipal Income Tax, penalties and interest imposed by this chapter, or any person who shall refuse to permit the City Auditor or any duly authorized agent or employee, to examine his/her books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the

whole or any part of the tax, shall be guilty of a misdemeanor and shall be fined not more than \$150.00 or imprisoned for not more than 60 days, or both. The failure of any employer or taxpayer to receive or procure a return, questionnaire or declaration form shall not excuse him/her from making a return, questionnaire or declaration or from paying the tax. (Ord. 1971-130, passed 7-26-71)(Ord. 2010-108, passed 11-22-2010)