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§ 94.01 PURPOSE; ALLOCATION OF NET RECEIPTS.

(A) To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and permanent improvements of the City and the discharge of principal, and the payment of interest thereon, of obligations for permanent improvements both before and after the date of this Chapter, there is levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. ('68 Code § 300.2; amend. Ord. 7-1975, passed 2-5-75)

(B) The allocation of the receipts from the City earnings tax shall be as follows:

(1) All receipts shall be placed first in the general fund;

(2) All operating expenses and refunds associated with the City earnings tax shall be paid from the general fund.

(C) Further allocation shall be made by the City Council on an annual basis depending upon the needs of the City, apparent from time to time.

(Ord. 6-1984, passed 1-4-84; Am. Ord. 65-1990, passed 10-3-90; Am. Ord. 38-1993, passed 5-19-93)

§ 94.02 DEFINITIONS.

For the purpose of this Chapter the following words and phrases shall have the following meanings ascribed to them respectively:

(1) "Association." A partnership, limited partnership, or any other form of unincorporated enterprise, owned by 2 or more persons.

(2) "Board of Review." The board created by and constituted as provided in § 94.17 of this Chapter.

(3) "Business." 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).

(4) "Capital gains." The net profits from the sale of any real or personal property if (1) the property has been owned by the taxpayer for more than one year; and (2) the taxpayer is not regularly engaged in the business of selling such kind or character of property.

(5) "Capital loss." The net loss from the sale of any real or personal property if (1) the property has been owned by the taxpayer for more than one year; and (2) the taxpayer is not regularly engaged in the business of selling such kind or character of property.

(6) "City." The City of Springdale, Ohio.

(7) "Corporation." A corporation or joint stock association organized under the laws of the United States, this state, or any other state, territory, or foreign country or dependency.

(8) "Domicile." A principal residence that the taxpayer intends to use for an indefinite time and to which whenever they are absent they intend to return. A taxpayer has only one domicile even though they may have more than one residence.

(9) "Employee." One who works for wages, salary, commission, or other types of compensation in the services of an employer.

(10) "Employer." An individual, partnership, association, corporation, governmental body, unit or agency, or other entity, whether or not organized for profit, and including the officers and senior resident manager, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

(11) "Fiscal year." An accounting period of 12 months ending on any day other than December 31.

(12) "Generic Form." A paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for reporting of that municipal corporation's tax on income.

(13) "Gross receipts." Total income of taxpayer from whatever source derived.

(14) "Income from a pass-through entity." The partnership income of partner's distributive shares of shareholders of an S corporation, membership interest of members of a limited liability company, or other distributive or proportionate ownership shares of other pass-through entities.

(15) "Intangible Income." Income of any of the following types: income yield, interest, 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.

(16) "Internal Revenue Code." As in the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.1, et seq., as amended.

(17) "Internet." The international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.

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

(19) "Net profits." A gain from the operation of a business, profession, enterprise or other activity after provisions for all ordinary, reasonable and necessary expenses, either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, providing such accounting method does not conflict with any provisions of this Chapter and the Rules and Regulations which the Tax Commissioner has adopted or may adopt and without deduction of taxes imposed by this Chapter, federal, state and other taxes based on income, computed on the net worth basis, and in the case of an association or other unincorporated entity, without deduction of salaries or withdrawals of partners, or other owners; and otherwise adjusted to the requirements of this Chapter. Net profits shall include any amount or value received, realized, or recognized in a sale or other disposition of tangible personal property, or real property used in business, in excess of book value.

(20) "Nonresident." An individual, association, corporation, or other entity, domiciled outside the city.

(21) "Other Compensation." As defined in the Springdale Tax Rules and Regulations.

(22) "Other Payer." Any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.

(23) "Owner." A Sole proprietor, partner of a partnership or S corporation, a member of a limited liability company or any person with an ownership interest in a pass-through entity.

(24) "Pass-through Entity." 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.

(25) "Person." Every natural person, partnership, fiduciary, association, corporation or other entity. Wherever used in any clause prescribing or imposing a penalty, the term "person" as applied to any association shall include the partners or members thereof, and as applied to corporations, the officers thereof.

(26) "Place of business." Any bona fide offices, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his/her employees.

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

(28) "Qualified Plan." A retirement plan satisfying the requirements under §401 of the Internal Revenue Code as amended.

(29) "Qualifying Wages." Wages as defined in the Internal Revenue Code Section 3121(a), generally the Medicare wages in box 5 of the form W-2. Wages as used in this Chapter will have the same definition as Qualifying Wages.

(30) "Resident." A person, whether an individual, association, corporation, or other entity, domiciled in the City as further defined in the Rules and Regulations.

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

(32) "Rules and Regulations." The Rules and Regulations as set forth in this Chapter.

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

(34) "Tax Commissioner." The chief administrative officer of the Springdale Tax Commission, who shall be appointed by the Clerk of Council/Finance Director, the chief fiscal officer of the City, subject to the approval and confirmation of City Council. In the absence of the Tax Commissioner, it shall be the person executing the duties of the aforesaid Commissioner.

(35) "Tax year." The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this Chapter and, in case of a return for a fractional part of a year, the period for which the return is required to be filed.

(36) "Taxable Income." Gross wages, salaries, and all other compensation earned or received by reason of employment before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this Chapter. Other income or compensation is defined by the Rules and Regulations as taxable.

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

(38) "Taxpayer." A person, whether an individual, partnership, association, corporation, or other entity, required by this Chapter to file a return or pay a tax.

('68 Code, § 300.4; Ord. 74-1986, passed 11-5-86) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.03 IMPOSITION OF TAX.

The tax regulations imposed by this Chapter vary from the income tax imposed by the Congress of the United States. The Rules and Regulations imposed in accordance with this Chapter by the City Tax Commissioner need not correspond with those imposed by the Internal Revenue Service.

Subject to provisions of § 94.19 of this Chapter, an annual tax, for the purposes specified in § 94.01 of this Chapter, shall be levied on and after July 1, 2004, at the rate of one and one half percent (1.5%) per annum upon the following:
(Amended Ord. 17-2004, passed 05-05-04)

- (A) On all gross salaries, wages, including sick and vacation pay, commissions, deferred and all other compensation earned during the effective period of this Chapter by residents of this City.
- (B) On all gross salaries, wages, including sick and vacation pay, commissions, deferred and all other compensation earned during the effective period of this Chapter by non-resident individuals for work done or services performed or rendered in this City unless the total amount of days worked within this City is 12 (twelve) or fewer days in a calendar year. (Ord. 74-1986, passed 11-5-86) (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)
- (C) (1) On the portion attributable to this City of the net profits earned during the effective period of this Chapter, of all resident associations, unincorporated businesses, S-corporations, pass-through entities, professions or other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted in this City. Tax imposed on entities owned by two or more persons is upon the entity rather than the individual owners or members. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(2) On a resident individual's share of the net profits of a resident association, pass-through entity earned during the effective period of this Chapter. Municipal tax paid by the entity shall be credited to the individual's earnings tax pursuant to §94.19. (Am. Ord. 48-2003, passed 12-17-03)
- (D)(1) On the portion attributable to this City of the net profits earned during the effective period of this Chapter, of all nonresident associations, unincorporated businesses, S-corporations, pass-through entities, professions, or other entities, derived from sales made, work done or services performed or rendered,

business or other activities conducted in this City, whether or not the entity has an office or place of business in this City. Tax imposed on entities owned by two or more persons is upon the entity rather than the individual owners or members. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(2) On a resident individual's share of the net profits of a nonresident association, pass-through entity or other unincorporated entity earned during the effective period of this Chapter. Municipal tax paid by the entities shall be credited to the individual's earnings tax pursuant to §94.19. (Am. Ord. 48-2003, passed 12-17-03)

(E) On the net profits, earned during the effective period of this Chapter, of all corporations derived from sales made, work done or service performed or rendered and business or other activities conducted in this City, whether or not the corporations have an office or place of business in this City. ('68 Code, § 300.6)

§ 94.04 APPORTIONMENT OF NET PROFITS.

When a taxpayer conducts a business both within and outside this City, the portion of the entire net profits of the business to be apportioned as having been made within this City may be determined from the records of the business, if the business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within this City. The taxpayer may also have the option of determining net profits in this City by using the following formula, which shall be used if the taxpayer has no bona fide records showing net profits from City business activities, subject to the provisions of this section. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

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

(1) Ascertaining the percentage with the original cost of real and tangible personal property owned or used in the business and situated within this City during the period covered by the return, is of the original cost of all the real and tangible property owned or used in the business, wherever situated, during the period. As used above, 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. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(2) Ascertaining the percentage which the gross receipts of the business from sales made and services performed in this City during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during the period.

- (3) Ascertaining the percentage which the total wages, salaries, commissions, and other compensation paid, during the period covered by the return, to employees for services performed in this City, is of the total wages, salaries, commissions, and other compensation paid, during the period, to all employees within and outside this City.
- (4) Adding together the percentages determined in accordance with divisions (A) (1), (2), and (3) of this section, 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 the total.

(B) A factor is applicable even though it may be allocable entirely in or outside of this City.

(C) However, in the event a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer, or the Tax Commissioner, shall, under uniform regulations adopted by the board, have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment. ('68 Code, § 300.6) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.05 OPERATING LOSS CARRIED FORWARD.

(A) The portion of the net operating loss sustained in any taxable year apportioned to this City may be applied against the portion of the profit of succeeding years apportioned to this City, until exhausted, but in no event for more than three (3) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits in any prior year. (Ord. 74-1986, passed 11-5-86) (Am. Ord. 48-2003, passed 12-17-03)

(B) The portion of a net operating loss sustained shall be apportioned to this City in the same manner as provided herein for apportioning net profits to this City. (Am. Ord. 48-2003, passed 12-17-03)

(C) The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer. (Ord. 48-2003, passed 12-17-03)

(D) Losses from the operation of a business or profession are not deductible from employee earnings, but may be carried forward as set forth herein. However, if a taxpayer is engaged in two or more business activities to be included in the same return, the net loss of one entity may be used to offset the profits of another entity for purposes of arriving at overall net profits, except any portion of a loss reportable for municipal income tax purposes to another municipality. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(E) The Tax Commissioner shall provide by Rules and Regulations the manner in which the net operating loss carried forward shall be determined. ('68 Code, § 300.6) (Ord. 92-2000, passed 12-6-00)

§ 94.06 CONSOLIDATED RETURNS.

(A) Filing consolidated returns, providing they clearly show the income and expenses attributable to this City alone, is permitted if the taxpayer files a federal consolidated return. (Ord. 74-1986, passed 11-5-86) (Ord. 92-2000, passed 12-6-00)

(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 §1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated. (Ord. 48-2003, passed 12-17-03)

(B) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Commissioner shall require the information, in addition to the return hereinafter provided for, as he may deem necessary to ascertain whether net profits are properly apportioned to this City. If the Tax Commissioner finds net profits are not properly apportioned to this City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he may require the filing of a consolidated return or adjust the transactions so as to produce a fair and proper apportionment of the net profits to this City. ('68 Code, § 300.6)

§ 94.07 CAPITAL GAINS.

Capital gains from the sale of depreciable property shall be taxable to the extent of the aggregate amount of the depreciation taken on the property for the city earnings tax purposes. ('68 Code, § 300.6)

§ 94.08 EXCEPTION.

The provisions of this Chapter shall not be construed as levying a tax upon income as described in §718.01(F) of the Ohio Revised Code and further defined in Article III.F of the Springdale Rules and Regulations. The Tax Commissioner shall require documentation verifying non-taxable status. ('68 Code, § 300.6) (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.09 EFFECTIVE PERIOD.

The tax imposed by this Chapter shall be levied, collected and paid with respect to the gross salaries, wages, commissions, deferred, and all other compensations, and with respect to the net profits of businesses, professions or other activities, subject to the tax, earned after December 31, 1986. (Ord. 74-1986, passed 11-5-86)

§ 94.10 RETURN AND PAYMENT OF TAX.

- (A) Each resident, age nineteen and older shall make and file a return with the Tax Commissioner by April 15 (fifteen) of each year whether or not a tax is due. Each person who engages in business, or whose salary, wages, commissions or other compensation are subject to the tax imposed by this Chapter shall make and file, on or before April 15 (fifteen) in each year, a return with the Tax Commissioner whether or not a tax is due. A taxpayer on a fiscal year accounting basis for federal income tax purposes shall file a return by the 15th (fifteenth) day of the fourth month following the end of the fiscal year or period. The Tax Commissioner is authorized to provide by regulation that the return of an employer showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of an employee, and paid to the Tax Commissioner shall be accepted as the return required of any non-resident employee whose sole income, subject to the tax under this Chapter, is such salary, wages, commissions or all other compensation. Failure to file, even though no tax is due, is subject to penalty as defined in § 94.15. Filing requirements may be waived by the Tax Commissioner for persons with special needs. (Ord. 66-1982, passed 12-15-82) (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)
- (B) The return shall be filed on a form furnished by the Tax Commissioner or on a generic form in a readable format, setting forth: (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)
- (1) The aggregate amount of gross salaries, wages, commissions, deferred, and all other compensation earned and gross income from businesses, professions or other activities, less allowable ordinary, reasonable and necessary expenses as approved by the Tax Commissioner, in accordance with this Chapter/Rules and Regulations, incurred in the acquisition of such gross income earned during the preceding year and subject to said tax. (Ord. 74-1986, passed 11-5-86)
 - (2) The amount of the tax imposed by this Chapter on the earnings and profits.
 - (3) Copies of federal tax returns and related schedules, pertinent statements, information returns or other information as the Tax Commissioner may require, and as further defined in the Springdale Rules and Regulations, including a statement that the figures used in the return are the figures used in the return for federal income tax, adjusted to set forth only the income as is taxable under the provisions of this Chapter. ('68 Code, § 300.10) (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

- (4) A return filed without proper documentation is not considered a complete and legal filing and will be considered delinquent and subject to the provisions of §94.15. (Am. Ord. 48-2003, passed 12-17-03)

(C) Extensions

- (1) The Tax Commissioner may extend the time for filing the city income tax return, upon written request of the taxpayer, up to (seven and one half) 7 ½ months. A copy of the federal extension shall be accepted as an extension request when filed with this City's tax department on or before the date the return is originally due. A tentative return should be included with the extension request, accompanied by payment of the amount of tax shown to be due thereon. Failure to file or request an extension on or before the original filing date of the return, even though no tax is due, is subject to penalty as defined in § 94.15. (Ord. 66-1982, passed 12-15-82) (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

- (2) The Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:

- a.) fails to timely file a written extension request;
- b.) fails to timely file a copy of the federal extension request;
- c.) owes this City any delinquent income tax, penalty or interest;
- d.) has failed to file any required income tax return, report or other related document for a prior tax period.

(Ord. 48-2003, passed 12-17-03)

- (3) The granting of an extension for filing a city income tax return does not extend the due date for payment of tax. (Ord. 48-2003, passed 12-17-03)

(D) Payment

- (1) The taxpayer making a return shall pay to the Tax Commissioner the amount of taxes shown as due. However, credit shall be allowed for:

- a.) Any portion of the tax so due which shall have been deducted at the source pursuant to the provisions of § 94.11;
- b.) Any portion of the tax which shall have been paid by the taxpayer pursuant to the provisions of §94.12;
- c.) Credit to the extent allowed by §94.19 for tax paid to another municipality.

Credits for amounts so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable by the original due date of the return. (Am. Ord. 48-2003, passed 12-17-03)

- (2) A taxpayer who has overpaid the amount of tax to which this City is entitled

under the provisions of this Chapter may have such overpayment applied against any subsequent liability hereunder, or, at his election indicated on the return, the overpayment, or part thereof, shall be refunded pursuant to the provisions of §94.16 of this Chapter. (Am. Ord. 48-2003, passed 12-17-03)

(E) Amended returns

- (1) An amended return must be filed within 3 years of the original filing date in order to report additional income or loss and pay any additional tax due or to claim a refund of tax overpaid, subject to the requirements and limitations contained in §§ 94.16 and 94.19. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return. (Am. Ord. 48-2003, passed 12-17-03)
- (2) Within 3 months from the final determination of any federal tax liability affecting the taxpayer's Springdale tax liability, the taxpayer shall make and file an amended Springdale return showing income subject to this City, based upon the final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment. ('68 Code, § 300.10)

§ 94.11 COLLECTION AT SOURCE.

- (A) Each employer within, or doing business within this City who employs one or more persons on a salary, wage, commission, or all other compensation basis shall withhold the tax at the time of payment of those gross salaries, wages, commissions, deferred or all other compensation due by the employer to each employee and shall, on or before the fifteenth (15th) of April, July, October, and January of each year, make a return and pay to the Tax Commissioner the amount of taxes so withheld during the preceding calendar quarter. The return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the Rules and Regulations prescribed therefore by the Tax Commissioner. (Ord. 74-1986, passed 11-6-86) (Am. Ord. 48-2003, passed 12-17-03) (Am. Ord. 23-2004, passed 06-16-04)
- (B) Each employer in collecting the tax shall be deemed to hold the same, until payment is made by the employer to this City, as a trustee for the benefit of this City and any tax collected by the employer from his employees shall, until the same is paid to this City, be deemed a trust fund in the hands of the employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not the tax, in fact has been withheld.
- (C) It shall be the responsibility, jointly and severally, of any employee, manager, officer, member or trustee who has control or supervision of or is charged with the responsibility of filing any reports or making any payments to see that all the taxes so withheld or any penalties or interest imposed under §94.15 are paid to this City in accordance with the provisions of this Chapter. In the event taxes withheld from

employees or any interest or penalties thereon are not paid to this City in accordance with the provisions of this section, the responsible employee, manager, officer, member or trustee shall also be criminally liable under the provisions of §§94.20 and 94.99 of this Chapter. (Ord. 55-1998, passed 8-19-98) (Am. Ord. 48-2003, passed 12-17-03)

(1) The dissolution, termination or bankruptcy of a business entity does not discharge an officer's, member's, manager's, employee's or trustee's liability to file returns or pay said taxes. (Am. Ord. 48-2003, passed 12-17-03)

(D) On or before the last day of February of each year, each employer shall file a withholding return, on a form furnished by the Tax Commissioner or on a generic form in a readable format. Such form shall include documentation setting forth:

(1.) The name, address and social security number of all employees who worked during the preceding calendar year in this City, whether or not the tax was withheld.

(2.) The total sum of income earned of all employees, including all other compensation.

(3.) Amount of tax withheld from all employees.

(4.) Other information as may be required by the Rules and Regulations.

(Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(E) In addition to the wage reporting requirements of this section, any person and/or business required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed, shall also report such payments to this City when the services were performed in this City. Payments made to corporations for services performed in this City, must also be reported. This information should be submitted as a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payment made. This information shall be filed annually on or before the last day of February. (Ord. 48-2003, passed 12-17-03)

(F) However, no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about the person's residence. ('68 Code, § 300.12) (Am. Ord. 65-1990, passed 10-3-90)

§ 94.12 DECLARATIONS.

(A) Every person who anticipates any taxable income that is not subject to § 94.11 or who engages in any business, profession, enterprise or activity subject to the tax imposed by §94.03, shall make and file a declaration setting forth the estimated income or estimated profit or loss from the business activity together with the estimated tax due thereon, if any. (Am. Ord. 48-2003, passed 12-17-03)

(B) (1) The declaration shall be filed on or before April 15 (fifteen) of each year or within

3 ½ (three and one half) months of the date the taxpayer first becomes subject to the provisions of this section. (Am. Ord. 48-2003, passed 12-17-03)

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration by the 15th (fifteenth) day of the fourth month following the start of each fiscal year or period. (Am. Ord. 48-2003, passed 12-17-03)

(C)(1) The declaration shall be filed upon a form furnished by the Tax Commissioner or a generic form in a readable format. Credit shall be taken on the declaration for city tax to be withheld from any portion of the earnings and for earnings tax to be paid to any taxing municipality for which credit is allowed under § 94.19 of this Chapter. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(2) The declaration of estimated tax to be paid to this City shall be accompanied by a payment of at least 1/4 of the estimated tax, less credit for taxes withheld or paid to any municipality, and at least a similar amount should be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the tax year. (Ord. 92-2000, passed 12-6-00)

(3) If upon the filing of the return required by §94.10 of this Chapter, it appears that the taxpayer did not pay 70% of his tax liability, as shown on the return, on or before January 31 or the date fixed by regulation, whichever is applicable, the difference between 70% of the taxpayer's tax liability and the amount of estimated tax actually paid shall be subject to the interest and penalty provisions of §94.15 of this Chapter. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

(D) No penalty or interest charges shall be assessed against a taxpayer for the late payment of estimated tax liability when the amount paid is equal to one hundred percent (100%) of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, providing the return for the preceding year reflected a twelve-month period and the taxpayer had filed a return for the preceding year in this City. (Ord. 48-2003, passed 12-17-03)

(E) A declaration may be amended at any time. However, when an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates. (Ord. 48-2003, passed 12-17-03)

(F) On or before the (fifteenth) 15th day of the fourth month of the calendar or fiscal year following that for which the declaration was filed, an annual tax return shall be filed and any balance which may be due this City shall be paid therewith in

accordance with the provisions of § 94.10 of this Chapter. ('68 Code, § 300.14) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.13 DUTIES OF TAX COMMISSIONER.

- (A) (1) It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Chapter in the manner prescribed herein, and to keep an accurate record thereof, and to report all monies so received.
- (2) It shall be the duty of the Tax Commissioner to enforce payment of all earnings taxes due this City, to keep accurate records, for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof. (Am. Ord. 48-2003, passed 12-17-03)
- (B) The Tax Commissioner is charged with the enforcement of the provisions of this Chapter and is empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce Rules and Regulations authorized or required by this Chapter pertaining to the collection and payment of taxes and the administration and enforcement of this Chapter including provisions for the re-examination and correction of returns.
- (C) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner will determine the amount of tax appearing to be due this City from the taxpayer and will, if possible, send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. (Am. Ord. 48-2003, passed 12-17-03)
- (D) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this Chapter. ('68 Code, § 300.16)

§ 94.14 INVESTIGATIVE POWERS; DIVULGING CONFIDENTIAL INFORMATION.

- (A) The Tax Commissioner, or his authorized agent, is authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, any person subject to or whom the Tax Commissioner believes is subject to the provisions of this Chapter, for the purpose of verifying the accuracy of any return made. If no return was made, to ascertain the tax or withholdings due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is required to furnish, upon written request from the tax office, the means, facilities and opportunity for making the examinations and investigations as are authorized. (Ord. 37-1981, passed 7-1-81; Am. Ord. 65-1990, passed 10-3-90) (Am. Ord. 48-2003, passed 12-17-03)

- (B) All owners, landlords, developers, homeowner associations, condominium associations and management companies of, including, but not limited to, apartments, office complexes, warehouse operations, homeowner associations, condominium associations, planned developments or other rental/leased properties located within this City are required to remit to the Tax Commissioner:
- (1) Within thirty (30) days after a member/lessee occupies or vacates such property, a listing of members/lessees, showing their names, addresses, telephone numbers, dates of move in or move out and forwarding addresses.
 - (2) Annually, a listing of names, addresses, employer identification number (EIN) or social security number if there is no EIN, and income paid to the persons or companies providing services or performing work in this City. (Ord. 48-2003, passed 12-17-03)
- (C) The Tax Commissioner is authorized to order any person presumed to have knowledge of the facts, whether as parties or witnesses, to appear at the office of the Tax Commissioner and to be examined under oath, concerning any income which was or should have been reported for taxation, or any transaction tending to affect the income. The Tax Commissioner may compel the production of books, papers, records and federal income tax returns pertinent to such inquiry. (Am. Ord. 48-2003, passed 12-17-03)
- (D) The failure or refusal of any person to comply with the provisions of this section or with an order or subpoena authorized by the Tax Commissioner, shall be deemed a violation of this Chapter, punishable as provided in §94.20 and §94.99 of this Chapter. (Am. Ord. 48-2003, passed 12-17-03)
- (E) Every taxpayer should 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. (Am. Ord. 48-2003, passed 12-17-03)
- (F) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this Chapter shall be confidential and no disclosure thereof shall be made, except to municipal, county, state or federal taxing agencies, for official purposes or in accordance with a proper judicial order. No person shall divulge such information in violation of this section. ('68 Code, § 300.18) Penalty, see § 94.99(A)
- (G) All persons or companies in the position of prime contractors doing business in this City are required to provide the names, addresses, employer identification number (EIN) or social security number if there is no EIN, and income paid to other persons or companies acting as subcontractors doing work in this City. (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.15 INTEREST AND PENALTIES.

- (A) All taxes imposed and moneys withheld or required to be withheld by employers, under the provisions of this chapter, remaining unpaid after they become due shall bear interest at the rate of 1% per month or fraction thereof.
- (1) Exceptions. A taxpayer who files timely but whose return contains a mathematical error, shall be granted a thirty (30) day extension, starting on the date of the initial Tax Department written notice correcting the error and informing of additional tax due. Should the taxpayer fail to pay any additional tax due within the 30-day period, interest shall be assessed on the balance. (Ord. 92-2000, passed 12-6-00) (Ord. 73-2002, passed 11-20-02)
- (B) In addition to interest as provided in division (A) of this section, penalties for failure to pay taxes, file a return or to withhold and/or remit taxes pursuant to the provisions of this Chapter are imposed as follows:
- (1) A taxpayer who fails to pay 70% of the total tax liability by the required due date as described in §94.12 of this Chapter shall be assessed a penalty amount of \$25. (Ord. 92-2000, passed 12-6-00) (Ord. 73-2002, passed 11-20-02)
- (2) A taxpayer who fails to file a return or an extension on or before the filing date shall be assessed a penalty of \$25. (Ord. 66-1982, passed 12-15-82; Am. Ord. 65-1990, passed 10-3-90) (Ord. 92-2000, passed 12-6-00) (Ord. 73-2002, passed 11-20-02)
- (3) Employers who fail to withhold and/or file a withholding return as required in §94.11 of this Chapter shall be assessed a penalty amount of \$25. Any employer who fails to remit to the Tax Commissioner the taxes withheld or to be withheld from employees by the required due date as described in §94.11 of this Chapter shall be assessed a penalty of two and one-half percent (2.5%) per month on the outstanding balance. (Ord. 92-2000, passed 12-6-00) (Ord. 73-2002, passed 11-20-02)
- (C) 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 (3) months after final determination of the federal tax liability. (Ord. 92-2000, passed 12-6-00) (Ord. 73-2002, passed 11-20-02)

§ 94.16 COLLECTION OF UNPAID TAXES; REFUNDS OR OVERPAYMENTS.

- (A) All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit or other lawful means, as other debts of like amount are recoverable or collectible. 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. 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, in the 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 Director 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 Commissioner shall be extended one year from the time of the final determination of the federal tax liability. (Am. Ord. 48-2003, passed 12-17-03)

(B) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which the payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later. ('68 Code, § 300.22; amend. Ord. 55-1977, passed 9-7-77)

(1) Interest shall be allowed and paid on any overpayment by a taxpayer in excess of one dollar (\$1.00) of any municipal income tax obligation from the date of the overpayment, with the following exceptions: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) 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 a taxable year shall be treated as having been paid before the date on which the 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 the Ohio Revised Code §5703.47. (Am. Ord. 48-2003, passed 12-17-03)

§ 94.17 BOARD OF REVIEW.

(A) A Board of Review, created by the City Council, shall consist of one Council member, and two (2) other electors of this City, all appointed by Council. (Am. Ord. 48-2003, passed 12-17-03)

(B) A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing. The provisions of § 94.14 of this Chapter, with reference to the confidential character of information required to be disclosed by the ordinance, shall apply to the matters as may be heard before the Board on appeal. (Am. Ord. 48-2003, passed 12-17-03)

(C) Any person dissatisfied with any ruling or decision of the Tax Commissioner that is made under the authority conferred by this Chapter may appeal in writing to the Board of Review within thirty (30) days from the announcement of the ruling or

decision by the Tax Commissioner. The Board shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any ruling decision or any part thereof. The taxpayer may appear before the board and may be represented by an attorney-at-law, certified public accountant or other representative. ('68 Code, § 300.26; amend. Ord. 93-1975, passed 12-30-75) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.18 RESPONSIBILITY OF CLERK OF COUNCIL/FINANCE DIRECTOR AND TAX COMMISSIONER.

There is created one unclassified position of Tax Commissioner for this City. The Tax Commissioner shall be appointed by the Clerk of Council/Finance Director. The appointment is subject to the approval and confirmation of the City Council, who shall set forth compensation as provided. The Clerk of Council/Finance Director shall also appoint other clerical and administrative assistants as are required for the proper administration of the tax, subject to the rules of the Civil Service Commission, at such compensation as set by the Council. The final responsibility for the administration and collection of the earnings tax rests with the Clerk of Council/Finance Director. The Tax Commissioner shall be responsible to and subject to the supervision of the Clerk of Council/Finance Director in the exercise of all powers and duties assigned by this Chapter. ('68 Code, § 300.28) (Ord. 92-2000, passed 12-6-00) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.19 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY AND/OR COUNTY.

- (A) Where a resident of this City is subject to a municipal income tax in another municipality and/or county, they shall not pay a total municipal income tax on that portion of income taxed by another municipality and/or county greater than the tax imposed at the higher rate. (Am. Ord. 8-1997, passed June 7, 1997)
- (B) Income taxable under this Chapter that is subject to an earnings tax in another municipality and/or county shall be allowed a credit (subject to the provisions of paragraph (C) below) against the tax imposed by this Chapter. The credit shall be the amount of tax assessed by the other municipality and/or county and paid by or on behalf of the taxpayer to such other municipality and/or county. The credit shall not exceed the tax assessed by this Chapter on that portion of income earned in such other municipality and/or county where such tax is paid. (Am. Ord. 8-1997, passed June 7, 1997) (Am. Ord. 48-2003, passed 12-17-03)
- (C) Credit will be given for municipal and/or county taxes only to the extent that the tax is used for the general operating and capital expenditures of a municipality and/or county and is the equivalent of the earnings tax levied by this City. Credit will not be given for municipal and/or county taxes specifically dedicated for mental health, schools, etc.. (Am. Ord. 8-1997, passed June 7, 1997)

(D) No claim for credit or refund shall be allowed unless the taxpayer provides employer documentation identifying each municipality and/or county for which tax was withheld from the taxpayer's wages, salaries, commissions and/or all other compensation for other municipalities and/or counties. (Ord. 37-1981, passed 7-1-81) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.20 VIOLATIONS.

(A) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter;
- (2) Make an incomplete, false or fraudulent return;
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter;
- (4) Fail, neglect or refuse to withhold the tax from employees and remit the withholding tax to the Tax Commissioner;
- (5) Fail, neglect or refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine the person's or the employer's books, records, papers and federal income tax returns;
- (6) Fail, neglect or refuse to appear before the Tax Commissioner and to produce the person's or the employer's books, records, papers or federal income tax returns upon order or subpoena of the Tax Commissioner;
- (7) Fail, neglect or refuse to disclose to the Tax Commissioner any information with respect to the person's or the employer's income or net profits;
- (8) Fail, neglect or refuse to comply with the provisions of this Chapter or any order or subpoena of the Tax Commissioner;
- (9) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by § 94.12 of this Chapter;
- (10) Fail, neglect or refuse as owner, president, treasurer, officer, member or trustee of a business, to cause the tax withheld from the wages of employees of the business pursuant to this Chapter to be paid to this City in accordance with the provisions of § 94.11 of this Chapter; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(Am. Ord. 48-2003, passed 12-17-03)

(B) Time limitations

- (1) Civil actions to recover City income taxes, and penalties/interest shall be brought within three (3) years after the tax was due or the return filed, whichever is later.
- (2) Prosecutions for an offense made punishable under a City ordinance imposing an income tax shall be commenced within three (3) years after the commission of the offense, except in the case of fraud, failure to file a return or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years (6) after the commission of the offense.

The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse them from making any information return, return or declaration, from filing the form or from paying the tax.

The term "Person" as used in this section shall, in addition to the meaning prescribed in § 10.04 and in §94.02 of this Chapter, include in the case of an association or corporation not having any partner, member or officer within this City, an employee or agent of such association or corporation who can be found within the corporation limits of this City. ('68 Code, § 300.25) Penalty, see § 94.99 (B) (Am. Ord. 48-2003, passed 12-17-03)

§ 94.99 PENALTY.

- (A) Whoever violates any provision of § 94.14 (F) shall be guilty of a misdemeanor of the third degree and shall be penalized as provided for in § 130.99. In addition to the above penalty, any employee of the city who violates any provision of § 94.14 (F) shall be guilty of an offense punishable by immediate dismissal. (Am. Ord. 48-2003, passed 12-17-03)
- (B) Whoever violates any provision of § 94.20 shall be guilty of a misdemeanor of the third degree and shall be penalized as provided for in § 130.99. (Ord. 37-1981, passed 7-1-81)