

VILLAGE OF JOHNSTOWN



ORDINANCE 04 - 2015

AN ORDINANCE TO REPEAL SECTION 191.12 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF JOHNSTOWN REGARDING INCOME TAX CREDITS

WHEREAS, Council for the Village of Johnstown determines it is necessary to repeal the tax credit set forth in Section 191.12 of the Codified Ordinances of the Village of Johnstown;

NOW, THEREFORE, be it ordained by the Council for the VILLAGE OF JOHNSTOWN, Licking County, Ohio, as follow:

Section One. Section 191.12 of the Codified Ordinances for the Village of Johnstown entitled "Credits" is hereby repealed.

Section Two. It is found and determined that all formal actions of Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that meetings of any of its committees that resulted in such formal action where meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter for the VILLAGE OF JOHNSTOWN.

By: David Keck
Effective Date: July 1, 2015

Sean Stancart
Sean Stancart, Mayor



ATTEST TO:

APPROVED AS TO FORM:

Teresa Monroe

Teresa Monroe
Clerk of Council

Jennifer Croghan

Jennifer Croghan
Law Director

ORDINANCE 15 - 2011

AN ORDINANCE TO AMEND CHAPTER 191 "INCOME TAX" TO CLARIFY INTENTIONS FOR PENALTIES AND TO DECLARE AN EMERGENCY

WHEREAS, the Regional Income Tax Authority (RITA) brought to the attention of the Village Finance Director several minor changes in Chapter 191; and

WHEREAS, section 191.19 (a) (1) through (a) (4) contains unclear guidance for the application of penalties;

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF JOHNSTOWN, LICKING COUNTY STATE OF OHIO:

That section 191.19 (a) (1) through (a) (2) shall be replaced with the following:

(a) In addition to any other penalty imposed by this chapter, the following penalties shall apply:

(1) All taxes imposed, including estimated taxes, and all moneys withheld or required to be withheld by employers, under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of two percent (2%) per month or fraction of a month.

(2) In addition to interest as provided in subsection (a)(1) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(A) For failure to pay taxes, including estimated payments, when due, other than taxes withheld, ten percent (10%) of the amount of unpaid tax, with a minimum penalty of not less than twenty-five dollars (\$25.00).

(B) For failure to remit taxes withheld from employees, ten percent (10%) of the unpaid employee withholding, with a minimum penalty of not less than one hundred dollars (\$100.00).

(C) For failure to file the tax return when due, and if the taxpayer is not otherwise exempt from the filing requirement, the Tax Administrator may impose a penalty of fifty dollars (\$50.00) for each offense, in addition to any other penalties which may otherwise be imposed.

And sections 191.19 (a) (5) through (a) (10) be renumbered as 191.19 (a) (3) through a(8) respectively. Example: current section 191.19 (a) 7 will now be numbered 191.19 (a) 5.

NOW THEREFORE, be it Ordained by the Council of the VILLAGE OF JOHNSTOWN, Licking County, Ohio, as follows:

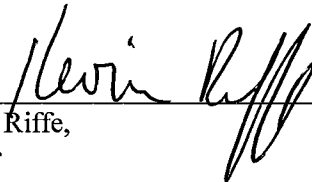
Section Two. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that meetings of any of its committees that resulted in such formal action where meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter for the VILLAGE OF JOHNSTOWN.

DATE OF INTRODUCTION: September 20, 2011
2nd reading October 4, 2011
3rd Final reading October 18, 2011



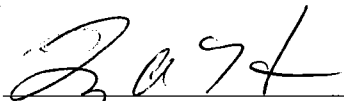
BY: Sean Stancart

DATE PASSED: Oct 18, 2011



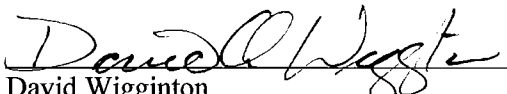
Kevin Riffe,
Mayor

ATTEST TO:



Larry Heiser,
Clerk of Council

APPROVED AS TO FORM:



David Wigginton
Law Director

ORDINANCE NO. 08-09**TO AMEND CHAPTER 191 "INCOME TAX" TO CORRECT SCRIVENER'S
ERRORS AND ADDRESS OMISSIONS AND DUPLICATIONS
AND TO DECLARE AN EMERGENCY.**

WHEREAS, the Regional Income Tax Authority (RITA) brought to the attention of Village Manager several scrivener's errors and/or omissions in Chapter 191; and

WHEREAS, Section 191.02(a) erroneously includes limitations wherein the only qualifying limitations are properly set forth in Section 191.02(f) Exclusions, with the passage of the Ordinance 22-03; and

WHEREAS, Section 191.07 omits the required filing of a Declaration and should be amended to include such required filing; and

WHEREAS, Section 191.08 unnecessarily includes separate filing designation requirements (e.g. joint returns for husband and wife); and

WHEREAS, the correction of this scrivener's error and addressing several omissions and duplications are in the interest of the preservation of the public peace, health, safety and welfare of the residents of the Village of Johnstown;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF JOHNSTOWN, LICKING COUNTY STATE OF OHIO:

Section One

That Section 191.02(a) shall be amended to read as follows:

- (a) **Basis of Imposition.** In order to provide for the purposes of general municipal operations, maintenance, new equipment, and capital improvements and to provide for the payment of principal and interest on certain bond issues of the Municipality, there is hereby levied a tax at the rate of one percent (1%) per annum on all income, compensation, for personal services by individuals, rents, or the net profit from a business profession, ~~with the limitation that no tax shall be levied on the following:~~ including but not limited to the following:

All other sub-sections of Section 191.02 shall remain unchanged.

Section Two

That Section 191.07 shall be amended, with additions being underlined and deletions being struck thru, to read as follows:

The Title shall be change as follows:

191.07 PAYMENT OF ESTIMATED TAXES; ~~DECLARATION SETTING FORTH ESTIMATED INCOME.~~

Further, the following paragraph shall be added to Section 191.07:

- (e) Every person who anticipates any taxable income which is not subject to Section 191.16 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 191.02 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City, in accordance with Section 191.16 hereof, such person need not file a declaration; and provided, however, no declaration is due nor are quarterly estimated payments required if the estimated payments for the taxable year will total less than one hundred dollars (\$100.00).

All other sub-sections of Section 191.07 shall remain unchanged.

Section Three

That Section 191.08 shall be amended, with additions being underlined and deletions being struck thru, and shall read as follows:

Section 191.08 INDIVIDUAL RETURNS; ~~JOINT RETURNS OF HUSBAND AND WIFE;~~ ATTESTATION

(a) Each person residing in the Municipality, 18 years of age or older, shall be required to file an annual return with respect to the tax imposed by this Chapter.

(1) Persons whose entire income is tax exempt for municipal tax purposes, or who have no income of any type, shall file a tax exempt form in lieu of a tax return and remain in effect until such time the taxpayer receives income taxable to the Municipality, if any.

~~(b) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several. But, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section~~

~~If either spouse is not required to file a federal income tax return and either or both are required to file a state of Ohio income tax return, they may elect to file a separate or joint returns, and pursuant to that election, their liabilities are separate or joint and several.~~

With the deletion of subsection (b) in its entirety, all other subsections in Section 191.08 shall be re-numbered/re-lettered accordingly, but otherwise shall remain unchanged.

Section Four

That Section 191.12 shall be amended, with additions being underlined and deletions being struck thru, and shall read as follows:

191.12 CREDITS

(a) Every ~~individual~~ taxpayer who resides in the Municipality but who received net profits, salaries, wages, commissions, rents or other compensation for work done or services performed or rendered outside the Municipality, ~~if it be made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, salaries, wages, commission, rent or compensation in another municipal corporation,~~ shall be allowed a credit for the amount so paid by him on in his behalf in such other municipal corporation. ~~This credit shall be limited to one half of one percent (0.5%) of the amount of tax actually paid to such other municipal authority after the computation of any set-offs, credits, exemptions, or deductions.~~ Notwithstanding the above, every ~~individual~~ taxpayer who resides in the Municipality shall pay to the Municipality one-half of one percent (0.5%) at least a fifty percent (50%) tax on all taxable compensation of any kind as defined in this chapter, from whatever source, regardless of any credits, set-offs, or deductions.

Section Five

That, for the reasons set forth in the preamble hereinabove, this ordinance is declared EMERGENCY legislation and shall be in full force and effect

immediately upon passage by this Council and on date of signature approval by the Mayor.

Section Six

Any ordinance or portion thereof in conflict with the provisions of this ordinance is hereby repealed.

Section Seven

It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that meetings of any of its committees that resulted in such formal action where meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter for the VILLAGE OF JOHNSTOWN.

DATE OF INTRODUCTION: November 3, 2009

BY: Councilwoman Evans

DATE PASSED: November 3, 2009

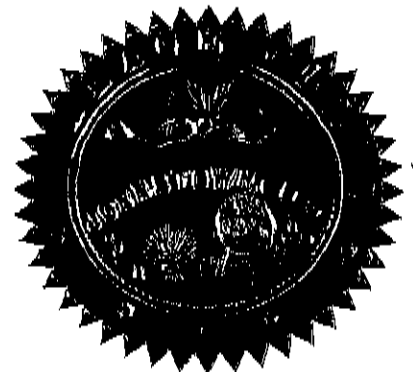
Kevin Riffe
Kevin Riffe, Mayor

ATTEST TO:

Regina L. Hunt
Regina Hunt
Clerk of Council

APPROVED AS TO FORM:

Mary Ellen Fulk
Mary Ellen Fulk
Law Director



CHAPTER 191
Income Tax

- 191.01 Definitions.
- 191.02 Imposition of tax and exclusions.
- 191.03 Department of Taxation.
- 191.04 Investigative powers of Tax Director; penalty for divulging confidential information.
- 191.05 Deduction and withholding of taxes by nonresident employers.
- 191.06 Withholding; exceptions; notification of amount withheld; liability of employer; provision of information by employee.
- 191.07 Payment of estimated taxes.
- 191.08 Individual returns; joint returns of husband and wife; attestation.
- 191.09 Option to round reported amounts to the nearest whole dollar.
- 191.10 Generic form; extension for filing income tax returns.
- 191.11 Consolidation of business income tax returns.
- 191.12 Credits.
- 191.13 Credits for income from pass-through entities.
- 191.14 Refunds; interest on refunds.
- 191.15 Amended return.
- 191.16 Failure to file return or pay tax; assessments; notice.
- 191.17 Interest or penalty on qualifying refund overpayment.
- 191.18 Collection of unpaid taxes.
- 191.19 Penalties for failure to file, failure to pay, fraudulent returns, fraudulent claim for refund.
- 191.20 Statute of limitations.
- 191.21 Board of Tax Appeals; notice and appeal; hearings.
- 191.22 Electronic availability of rules, ordinances and income tax forms.
- 191.23 Enforcement powers by other than the Municipality.
- 191.24 Rental property owners' report of tenants.
- 191.25 Contract provision.
- 191.26 Allocation of funds.
- 191.27 Severability.

CROSS REFERENCES

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

191.01 DEFINITIONS.

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

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

A. 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,

B. Add an amount equal to five percent (5%) of intangible income deducted under subsection (1)A. hereof, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

C. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

D. 1. Except as provided in subsection (1)D.2. hereof, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

2. Subsection (1)D.1. hereof does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

E. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

F. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

G. 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;

1. 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; and

2. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

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

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

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

(3) "Board of Review" (Board of Appeals, Board of Adjudication, etc.) means the Board created by and constituted as provided for in Section 191.21.

(4) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.

(5) "Corporation" means a corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency.

(6) "Date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the United States postal service.

(7) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.

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

(9) "Employer" means an individual, partnership, association, corporation, governmental body, unit, or agency or any other entity whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

(10) "Estimated tax liability" means the amount that a taxpayer estimated to be the taxpayer's liability for the Municipality's income tax for a year prior to applying any credits, estimated tax payments, or withheld taxes for the year.

(11) "Fiscal year taxpayer" means a taxpayer that reports the Municipality's income tax on the basis of a twelve-month period that does not coincide with the calendar year.

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

(13) "Generic form" means an electronic or paper form designed for reporting estimated the Municipality's income taxes and annual Municipality's income tax liability.

(14) "Gross receipts" means the total income from any source whatsoever.

(15) "Income from a pass-through entity" means partnership income of partners, distributive shares of shareholders of a S-corporation, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of other pass-through entities.

(16) "Intangible income" means 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, and patents, copyrights, trademarks, trade names, investments in real estate investments trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.

(17) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

(18) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical sub network known as the world wide web.

(19) "Joint Economic Development District" means districts created under the Ohio Revised Code sections 715.70 through 715.83 as amended from time to time.

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

(21) "Manager" means the Manager of the Municipality of Johnstown, Ohio.

(22) "Municipality" means the Municipality of Johnstown, Ohio.

(23) "Net profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 191.02(f), required to be reported on schedule C, schedule E, or schedule F.

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

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

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

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

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

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

(30) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.

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

(32) "Person" means every natural person, partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity shall mean the parties or members thereof and as applied to corporations, the officers thereof.

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

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

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

(36) "Qualifying refund overpayment" means an amount received by a taxpayer in excess of a refund or request for payment claimed or made on or on behalf of the taxpayer on a return report, or other document filed with the tax director.

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

(38) "Resident" means an individual domiciled in the Municipality.

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

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

(41) "Retirement income" means retirement benefits, annuities, or distributions that are made from or pursuant to a pension, retirement, or profit-sharing plan and that:

A. In the case of an individual, are received by the individual on account of retirement and are included in the individual's adjusted gross income;

B. In the case of an estate, are payable to the estate for the benefit of the surviving spouse of the decedent and are included in the estate's taxable income

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

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

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

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

C. All sales of tangible personal property shipped from a place within the Municipality to purchasers outside the Municipality regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

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

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

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

(47) "S Corporation" means 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.

(48) "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

(49) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(50) "Tax Director" means the person who has been designated to act as administrative head of the Department of Taxation or the person executing the duties of the aforesaid Director.

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

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

The singular shall include the plural; the masculine gender shall include the feminine or neutral genders.
(Ord. 22-03. Passed 12-16-03.)

191.02 IMPOSITION OF TAX AND EXCLUSIONS.

(a) Basis of Imposition. In order to provide for the purposes of general municipal operations, maintenance, new equipment, and capital improvements and to provide for the payment of principal and interest on certain bond issues of the Municipality, there is hereby levied a tax at the rate of one percent (1%) per annum on all income, compensation for personal services by individuals, rents, or the net profit from a business or profession, with the limitation that no tax shall be levied on the following:

(1) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by residents of the Municipality;

(2) On all qualifying wages, commissions, other compensation, and other taxable income earned or received by nonresidents for work done, or services performed or rendered, in the Municipality;

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

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

(5) On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the municipality, whether or not such corporations have an office or place of business in the Municipality.

(b) **Businesses Both In and Outside the Municipal Boundaries.** This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in subsection (d) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average rates of the following:

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

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

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

B. Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code;

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

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

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

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

(c) As used in subsection (b) hereof, "sales made in a municipal corporation" mean:

(1) All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;

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

(3) All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) Net Operating Loss (NOL).

(1) The Municipality does not allow a net operating loss carryback or carryforward.

(2) Nothing in Chapter 718.01 of the Ohio Revised Code requires a municipal corporation to allow a net operating loss carryforward.

(e) Consolidated Returns.

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

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

(f) Exclusions.

(1) Personal earnings of any person under eighteen years of age.

(2) 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.

(3) Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

- (4) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
- (5) Proceeds from public assistance, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.
- (6) Alimony.
- (7) Compensation for damage to property by way of insurance or otherwise.
- (8) Interest and dividends from intangible property.
- (9) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (10) Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
- (11) Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
- (12) In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
- (13) Compensation paid under Section 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. Such compensation in excess of one thousand dollars is subject to taxation.
- (14) 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 a tax

by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality;

(15) The income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except starting January 1, 2002, the income of an electric company or combined company, as defined in Section 5727.01 of the Ohio Revised Code. For a combined company, only the income attributed from the activity of an electric company shall be subject to taxation. The income of an electric company or combined company subject to taxation by the Municipality will be computed by taking into account the adjustments provided by division (I)(16) of Section 5733.04 of the Ohio Revised Code.

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

A. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.

B. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.

(17) If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipal income tax.

(18) The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.

(19) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

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

(Ord. 22-03. Passed 12-16-03.)

191.03 DEPARTMENT OF TAXATION.

(a) There is hereby established within the Municipality a Department of Taxation, of which the Tax Director shall be the administrative head, which Department shall be responsible for all matters constituting the subject matter of this chapter. The Tax Director shall supervise employees as may be provided by Council and Manager Approval.

(b) The Tax Director shall be appointed by the Manager, and shall fall under his direct supervision. The Tax Director shall be bonded.

(c) It shall be the duty of the Tax Director to collect and receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate account thereof, and to report and turn over to the Finance Director all moneys so received.

(d) It shall be the duty of the Tax Director to enforce payment of all tax owing the Municipality, to keep accurate records for a minimum of time prescribed by law showing the amount due from each tax payment and the date of such payment.

(e) The Tax Director, under the direct supervision and approval of the Manager, is hereby charged with the administration and enforcement of the provisions of this chapter and is hereby empowered to adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns and payments.

(f) The Tax Director is authorized to arrange for the payment of unpaid taxes, interest, and penalties on a schedule of installment payments, when the taxpayer has proved to the Tax Director that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

(Ord. 22-03. Passed 12-16-03.)

191.04 INVESTIGATIVE POWERS OF TAX DIRECTOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Tax Director, or his designee, is hereby authorized to examine the books, papers, records, and federal income tax returns of any employer or of any taxpayer or person subject to, or who the Tax Director believes is subject to, the provisions of this chapter for the purposes of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer, or supposed taxpayer is hereby directed and required to furnish upon written request by the Tax Director or his designee the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Tax Director is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income that was or would have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) Any information gained as a result of returns investigations, hearings, or verifications required or authorized by this chapter is confidential. No person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized this chapter. The Tax Director may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the Ohio Tax Commissioner. Any person divulging such information in violation of this chapter shall be subject to a fine or penalty of not more than three hundred dollars (\$300.00) and imprisoned not more than three months, or both. Each disclosure shall constitute a separate offense.
(Ord. 22-03. Passed 12-16-03.)

191.05 DEDUCTION AND WITHHOLDING OF TAXES BY NONRESIDENT EMPLOYERS.

(a) Beginning January 1, 2001, a nonresident employer, agent of such an employer, or other payer that is not situated in the Municipality will deduct and withhold taxes from the taxable income of an individual the total amount of tax required to deduct and withhold taxes from the taxable income of an individual only if the total amount of tax required to be deducted and withheld for the Municipality on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year beginning on or after that date. If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's

employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year beginning on or after January 1, 2001, the Municipality requires the employer, agent, or other payer to deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars (\$150.00) or less, except as otherwise provided in subsection (b) hereof.

(b) If a nonresident employer, agent of such an employer, or other payer that is not situated in the Municipality is required to deduct and withhold taxes for an ensuing year under subsection (a) hereof, and the total amount of tax required to be deducted and withheld under that division in each of three consecutive ensuing years is one hundred fifty dollars (\$150.00) or less, the Municipality does not require the employer, agent or other payer to deduct and withheld taxes in any year following the last of these consecutive years unless the amount required to be deducted and withheld in any such following year exceeds one hundred fifty dollars (\$150.00).

(Ord. 22-03. Passed 12-16-03.)

191.06 WITHHOLDING; EXCEPTIONS; NOTIFICATION OF AMOUNT WITHHELD; LIABILITY OF EMPLOYER; PROVISION OF INFORMATION BY EMPLOYEE.

(a) Every employer, including the Municipality, maintaining an office or transacting business within the Municipality and making payment of any compensation to an employee who is a taxpayer shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, as far as practicable, in withholding from the employee's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under this Chapter with respect to the amount of such compensation included in his gross income during the calendar year. The employer shall deduct and withhold the tax on the date that the employer directly, indirectly, or constructively pays the compensation, to, or credits the compensation to the benefit of, the employee. The method of determining the amount to be withheld shall be prescribed by rule of the Tax Director.

(b) An employer shall make the payment of undeposited taxes for each calendar quarter during which they were required to be withheld no later than the last day of the month following the end of each calendar quarter. The employer shall file the quarterly return even if the aggregate amount required to be deducted and withheld for the quarter is zero dollars. At the time of filing the return, the employer shall pay any amounts of undeposited taxes for the quarter, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. The employer shall file the return prescribed by the Tax Director with the payment.

(Ord. 22-03. Passed 12-16-03.)

(c) In addition to returns required to be filed and payments required to be made under this section, every employer required to deduct and withhold taxes shall file, not later than the twenty eighth day of February of each year, an annual return covering, but not limited to, both the aggregate amount deducted and withheld during the entire preceding year for the tax imposed under Section 191.02 of this chapter. At the time of filing the return, the employer shall pay any amounts of undeposited taxes for the preceding year, whether actually deducted and withheld or required to be deducted and withheld, that have not been previously paid. The employer shall make the annual report, to each employee and the Tax Director, of the compensation paid and each tax withheld, as the Tax Director by rule may prescribe.

(Ord 16-04. Passed 12-7-04.)

(d) Each employer shall file with the employer's annual return the following items of information on employees for whom withholding is required under this chapter:

(1) The full name of each employee and the employee's address;

(2) The social security number of each employee;

(3) The total amount of compensation paid before any deductions to each employee for the period for which the annual return is made;

(4) The amount of the tax imposed by Section 191.02 of this chapter and the amount of tax withheld from the compensation of the employee for the period for which the annual return is made.

(e) The Tax Director may extend upon good cause the period for filing any notice or return required to be filed under this section and may adopt rules relating to extensions of time. If the extension results in an extension of time for the payment of the amounts withheld with respect to which the return is filed, the employer shall pay, at the time the amount withheld is paid an amount of interest computed at the rate per annum prescribed by Section 5703.47 of the Ohio Revised Code on that amount withheld, from the day that amount was originally required to be paid to the day of actual payment or to the day an assessment is issued under Section 191.17 of this chapter, whichever occurs first.

(f) The failure of an employer to withhold tax as required by this Section or to remit such tax as required by law does not relieve an employee from the liability for the tax.

(g) If an employer fails to deduct and withhold any tax as required, and thereafter the tax is paid, the tax so required to be deducted and withheld shall not be collected from the employer, but the employer is not relieved from liability for penalties and interest otherwise applicable in respect to the failure to deduct and withhold the tax.

(h) To ensure that taxes imposed pursuant to this chapter are deducted and withheld as provided in this section:

(1) Each employee shall furnish his employer with sufficient and correct information to enable the employer to withhold the taxes imposed under this Chapter. The employee shall provide additional or corrected information whenever information previously provided by him to his employer becomes insufficient or incorrect.

(2) If the employer complies with the requirements of subsection (h)(1) hereof and if the employees fail to comply with the requirements of subsection (h)(1) hereof, the employer is not required to withhold and pay the taxes imposed under this chapter.
(Ord. 22-03. Passed 12-16-03.)

191.07 PAYMENT OF ESTIMATED TAXES.

(a) Taxpayers who are individuals must remit payment of estimated taxes as prescribed by the following, subject to subsections (b) and (d)(l) and (2) hereof:

(1) Twenty-five percent (25%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of April disregarding any extension, as prescribed by this chapter or rules of the Tax Director;

(2) Fifty percent (50%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of July;

(3) Seventy-five percent (75%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of October;

(4) One hundred percent (100%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of January.

(b) Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed by subsection (a) hereof.

(c) Taxpayers who are not individuals shall remit payments of estimated taxes as prescribed by the following, subject to subsection (d)(2) hereof:

(1) Twenty-five percent (25%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's taxable year;

(2) Fifty percent (50%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of June, or in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year;

(3) Seventy-five percent (75%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of September or, in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year;

(4) One hundred percent (100%) of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of December, or in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's taxable year.

(d) The Municipality will not impose any penalty, interest, interest penalty, or other similar assessment or charge against a taxpayer for the late payment or nonpayment of estimated tax liability in either of the following circumstances:

(1) The taxpayer is an individual who resides the Municipality but was not domiciled within the Municipality on the first day of January of the current calendar year;

(2) The taxpayer has remitted, pursuant subsection (a) or (c) hereof, an amount at least equal to one hundred per cent of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year.

(Ord. 22-03. Passed 12-16-03.)

191.08 INDIVIDUAL RETURNS; JOINT RETURNS OF HUSBAND AND WIFE; ATTESTATION.

(a) Each person residing in the Municipality, 18 years of age or older, shall be required to file an annual return with respect to the tax imposed by this Chapter.

(1) Persons whose entire income is tax exempt for municipal tax purposes,, or who have no income of any type, shall file a tax exempt form in lieu of a tax return.

(2) If an individual is deceased, any return or notice required of that individual under this chapter shall be made and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(3) If an individual is unable to make a return or notice required by this chapter, the return or notice required of that individual shall be made and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(4) Returns or notices required of an estate or a trust shall be made and filed by the fiduciary of the estate or trust.

(b) If a husband and wife file a joint federal income tax return for a taxable year, they shall file a joint return under this section for that taxable year, and their liabilities are joint and several. But, if the federal income tax liability of either spouse is determined on a separate federal income tax return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax return and either or both are required to file a state of Ohio income tax return, they may elect to file separate or joint returns, and pursuant to that election, their liabilities are separate or joint and several.

(c) Each return or notice required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number. Each return shall be verified by a declaration under the penalties of perjury. The Tax Director shall prescribe the form that the signature and declaration shall take.

(d) No person shall knowingly fail to file any return or report required to be filed by this chapter, or file or knowingly cause to be filed any incomplete, false, or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(e) Each return or notice required to be filed under this section shall be made and filed as required by this chapter on or before the fifteenth day of April of each year, on forms that the Tax Director shall prescribe, together with remittance made payable to the Municipality in the combined amount of the income taxes shown to be due on the form, unless the combined amount shown to be due is one dollar (\$1.00) or less, in which case that amount need not be remitted.

(f) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that date by United States mail to the Tax Director, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. (Ord. 22-03. Passed 12-16-03.)

191.09 OPTION TO ROUND REPORTED AMOUNTS TO THE NEAREST WHOLE DOLLAR.

A taxpayer may, at his election, round to the nearest whole dollar all amounts the taxpayer is required to enter on his return, including but not limited to adjusted gross income, taxable income, adjustments to income, credits, withheld taxes, estimated tax payments, and taxes due.

Any fractional part of a dollar that equals or exceeds fifty cents (\$0.50) shall be rounded to the next whole dollar and any fractional part of a dollar that is less than fifty cents (\$0.50) shall be dropped. If a taxpayer elects to round amounts entered on the return, the taxpayer shall round all amounts entered. (Ord. 22-03. Passed 12-16-03.)

191.10 GENERIC FORMS; EXTENSION FOR FILING INCOME TAX RETURNS.

(a) No taxpayer is required to file an annual income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such a taxpayer under the Internal Revenue Code.

(b) On and after January 1, 2001, the Municipality will accept for filing a generic form of such a return, report, or document if the generic form, once completed and filed, contains all of the information required to be submitted with the Municipality's prescribed returns, reports, or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules and ordinance of the Municipality governing the filing of returns, reports, or documents.

(c) Beginning January 1, 2001, any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of the Municipality's income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the individual or office of the Tax Director. The request for extension shall be filed not later than the last day for filing the Municipality's income tax return as prescribed by this chapter. The Municipality shall grant such a request for extension for a period not less than the period of the federal extension request. The Municipality may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the Municipality any delinquent income tax or any penalty, interest, assessment, or other charge, for the late payment or nonpayment of income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing the Municipality's income tax return does not extend the last date for paying the tax without penalty unless the Municipality grants an extension of that date.

(Ord. 22-03. Passed 12-16-03.)

191.11 CONSOLIDATION OF BUSINESS INCOME TAX RETURNS.

On and after January 1, 2003, the Municipality will accept for filing a consolidated income tax return from any affiliated group of corporations subject to the Municipality's corporation's tax if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.

(Ord. 22-03. Passed 12-16-03.)

191.12 CREDITS

(a) Every individual taxpayer who resides in the Municipality but who received net profits, salaries, wages, commissions, rents or other compensation for work done or services performed or rendered outside the Municipality, if it be made to appear that he has paid a municipal income tax or excise tax based on income, on such net profits, salaries, wages, commission, rent or compensation in another municipal corporation, shall be allowed a credit for the amount so paid by him on in his behalf in such other municipal corporation. This credit shall be limited to one-half of the amount of tax actually paid to such other municipal authority after the computation of any set-offs, credits, exemptions, or deductions. Notwithstanding the above, every individual taxpayer who resides in the Municipality shall pay at least a fifty percent (50%) tax on all taxable compensation of any kind as defined in this chapter, from whatever source, regardless of any credits, set-offs, or deductions.

(b) The Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, 715.72 of the Ohio Revised Code to the same extent as described in division (a) of this section.
(Ord. 22-03. Passed 12-16-03.)

191.13 CREDITS FOR INCOME FROM PASS-THROUGH ENTITIES.

(a) On and after January 1, 2003, any income from a pass-through entity shall be granted a credit to taxpayers that are domiciled in the Municipality for taxes paid to another municipal corporation by a pass-through entity that does not conduct business in the Municipality. The amount of the credit shall equal the lesser of the following amounts, subject to subsection (c) hereof:

(1) The amount, if any, of the tax paid by the pass-through entity to another municipal corporation in this state, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity;

(2) The amount of tax that would be imposed on the pass-through entity by the Municipality in which the taxpayer is domiciled if the pass-through entity conducted business in the Municipality, apportioned ratably according to the ownership interest of the taxpayer in proportion to the ownership interest of all owners of the entity.

(b) The amount of the credit given under subsection (a) hereof shall be multiplied by the percentage of credit granted by Section 191.12 of this chapter.

(c) The tax imposed by subsection (a) shall apply to the income of the pass-through entity in the hands of the entity.
(Ord. 22-03. Passed 12-16-03.)

191.14 REFUNDS; INTEREST ON REFUNDS.

(a) The Tax Director shall refund to employers, qualifying entities, or taxpayers, with respect to any tax imposed under this chapter:

(1) Overpayments of more than one dollar (\$1.00);

(2) Amounts in excess of one dollar (\$ 1.00) paid illegally or erroneously;

(3) Amounts in excess of one dollar (\$1.00) paid on an illegal, erroneous, or excessive assessment.

(b) Except as otherwise provided under Section 191.10(b), applications for refund shall be filed with the Tax Director on the form prescribed by the Tax Director.

(c) Claims for refund of the municipal income taxes must be brought within the time limitation provided in Section 191.20(a).

(d) Interest shall be allowed and paid on any overpayment by a taxpayer of any income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the complete return is filed, whichever is later, no interest shall be allowed on the refunded overpayment. 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 tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Section 5703.47 of the Ohio Revised Code.

(e) If a taxpayer entitled to a refund under subsection (a) hereof is indebted to this Municipality for any tax or fee administered by the Tax Director, or any charge, penalty, or interest arising from such a tax or fee, the amount refundable will be applied in satisfaction of the debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after satisfaction of the debt shall be refunded.
(Ord. 22-03. Passed 12-16-03.)

191.15 AMENDED RETURN.

If any of the facts, figures, computations, or attachments required in a taxpayer's annual return to determine the tax charged by this chapter must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the Internal Revenue Service, and such alteration affects the taxpayer's tax liability under this chapter, the taxpayer shall file an amended return with the Tax Director in such form as the Tax Director requires. The amended return shall be filed not later than sixty days after the adjustment has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first.

(a) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with interest thereon. If the combined tax shown to be due is one dollar or less, such amount need not accompany the amended return. An amended return required by this section is a return subject to assessment under Section 191.17 for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. It shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

(b) In the case of an overpayment, an application for refund may be filed under this section within the sixty-day period prescribed for filing the amended return. An application filed under this section shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return. It shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

(Ord. 22-03. Passed 12-16-03.)

191.16 FAILURE TO FILE RETURN OR PAY TAX; ASSESSMENTS; NOTICE.

(a) If any employer collects the tax imposed by Section 191.02 of this chapter and fails to remit the tax as required by law, or fails to collect the tax, the employer is personally liable for any amount collected which the employer fails to remit, or any amount which the employer fails to collect. If any taxpayer fails to file a return or fails to pay the tax imposed by Section 191.02 of this chapter, the taxpayer is personally liable for the amount of the tax.

(b) If any employer or taxpayer required to file a return under this chapter fails to file the return within the time prescribed, files an incorrect return, fails to remit the full amount of the taxes due for the period covered by the return, or fails to remit any additional tax due as a result of a reduction in the amount of the credits allowed under Sections 191.12 and 191.13 together with interest on the additional tax within the time prescribed by that section, the Tax Director may make an assessment against any person liable for any deficiency for the period for which the return is or taxes are due, based upon any information in the administrator's possession.

(c) Such assessment shall be served upon the employer or taxpayer, as the case may be, in person or by mailing to the last known address of such taxpayer, employer, or qualifying entity. Proof of mailing such proposed assessment shall be presumptive proof of receipt thereof by the addressee.

(d) An assessment issued against either the employer or the taxpayer pursuant to this section shall not be considered an election of remedies or a bar to an assessment against the other for failure to report or pay the same tax. No assessment shall be issued against any person if the tax actually has been paid by another.
(Ord. 22-03. Passed 12-16-03.)

191.17 INTEREST OR PENALTY ON QUALIFYING REFUND OVERPAYMENT.

A qualifying taxpayer is not liable for any interest or penalty with respect to the repayment of a qualifying refund overpayment if the taxpayer pays the entire amount of the overpayment to the Tax Director not later than thirty days after the taxpayer receives an assessment for it. If the taxpayer does not pay the entire amount of the overpayment to the Tax Director within the time prescribed by this section, interest shall accrue on the amount of the deficiency pursuant to Section 5747.13 of the Ohio Revised Code from the day the Tax Director issues the assessment until the deficiency is paid.
(Ord. 22-03. Passed 12-16-03.)

191.18 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectable, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. The Tax Director is authorized, in addition to his other duties, to institute civil lawsuits to collect delinquent taxes due and owing the Municipality by virtue of the provisions of this chapter.
(Ord. 22-03. Passed 12-16-03.)

191.19 PENALTIES FOR FAILURE TO FILE, FAILURE TO PAY, FRAUDULENT RETURNS, FRAUDULENT CLAIM FOR REFUND.

(a) In addition to any other penalty imposed by this chapter, the following penalties shall apply:

(1) All taxes imposed by this chapter and remaining unpaid after they become due shall accrue interest at the rate of two percent (2%) per month on the principal unpaid balance. Such interest shall accrue on the unpaid balance of all tax which was due from the date if the tax had been time filed and paid.
(Ord. 22-03. Passed 12-16-03.)

(2) The penalty for non-filing or late filing of a return required to be filed and paid, for which an extension of time was not timely sought and obtained, shall be ten percent (10%) of the amount of the principal tax or twenty-five dollars (\$25.00) whichever is greater and will be due with the filed return. (Ord. 16-04. Passed 12-7-04.)

(3) Any employer who fails to timely file a withholding report for employees withholding tax with all tax due in conformity with Sections 191.05 and 191.06 shall pay a penalty of ten percent (10%) of the total amount of employee withholding tax due and payable.

(4) Any taxpayer failing to timely make and pay his quarterly estimate as required by Section 191.07 of this chapter shall be assessed a penalty of ten percent (10%) of the amount of estimated tax due.

(5) If a taxpayer or employer required to pay taxes, penalties, or interest makes a payment of the taxes, penalties, or interest with a nonnegotiable or dishonored instrument, a penalty of thirty dollars (\$30.00) shall be added to the amount due. The penalty imposed by this section shall be assessed and collected in the same manner as the taxes, penalties, or interest. (Ord. 22-03. Passed 12-16-03.)

(6) Any person subject to the provisions of this chapter who shall fail, neglect or refuse to make any return or report shall be guilty of a misdemeanor and shall be fined not more than as follows:

- A. First offense \$250.00 (max.);
- B. Second offense 500.00 (max.);
- C. Third offense 750.00 (max.);
- D. Fourth offense 1,000.00 (max.).

If the violation of this section is willful and intentional a jail term may also be imposed with the fine as follows:

- A. First offense 30 days (max.);
- B. Second offense 60 days (max.);
- C. Third offense 90 days (max.);
- D. Fourth offense 180 days (max.).

(7) Any employer subject to the provisions of this chapter who shall fail, neglect or refuse to deduct and withhold the taxes imposed by this chapter, or shall be guilty of a misdemeanor and shall be fined not more than as follows:

- A. First offense \$250.00 (max.);
- B. Second offense 500.00 (max.);
- C. Third offense 750.00 (max.);
- D. Fourth offense 1,000.00 (max.).

If the violation of this section is willful and intentional a jail term may also be imposed with the fine as follows:

- A. First offense 30 days (max.);
- B. Second offense 60 days (max.);
- C. Third offense 90 days (max.);
- D. Fourth offense 180 days (max.).

(8) Any taxpayer who shall fail, neglect or refuse to pay the tax, interest and penalties imposed by this chapter shall be guilty of a misdemeanor and shall be fined not more than one hundred dollars (\$100.00) for the first offense, and shall be fined not more than as follows:

- A. First offense \$250.00 (max.);
- B. Second offense 500.00 (max.);
- C. Third offense 750.00 (max.);
- D. Fourth offense 1,000.00 (max.).

If the violation of this section is willful and intentional a jail term may also be imposed with the fine as follows:

- A. First offense 30 days (max.);
- B. Second offense 60 days (max.);
- C. Third offense 90 days (max.);
- D. Fourth offense 180 days (max.).

(9) Any person who shall refuse to permit the Tax Director or his designee to examine the books, records, and papers of a taxpayer shall be guilty of a misdemeanor and shall be fined not more than as follows:

- A. First offense \$250.00 (max.);
- B. Second offense 500.00 (max.);
- C. Third offense 750.00 (max.);
- D. Fourth offense 1,000.00 (max.).

If the violation of this section is willful and intentional a jail term may also be imposed with the fine as follows:

- A. First offense 30 days (max.);
- B. Second offense 60 days (max.);
- C. Third offense 90 days (max.);
- D. Fourth offense 180 days (max.).

(10) Any person who shall knowingly make an 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 due under this chapter shall be guilty of a misdemeanor and shall be fined not more than as follows:

- A. First offense \$250.00 (max.);
- B. Second offense 500.00 (max.);
- C. Third offense 750.00 (max.);
- D. Fourth offense 1,000.00 (max.).

If the violation of this section is willful and intentional a jail term may also be imposed with the fine as follows:

- A. First offense 30 days (max.);
- B. Second offense 60 days (max.);
- C. Third offense 90 days (max.);
- D. Fourth offense 180 days (max.).

(Ord. 16-05. Passed 11-1-05.)

(b) The provision for interest and penalties provided herein shall apply separately and regardless of the application of one or the other to the taxpayer.

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

(Ord. 22-03. Passed 12-16-03.)

191.20 STATUTE OF LIMITATIONS.

(a) Civil actions to recover municipal income taxes and penalties and interest on the Municipality's income taxes shall be brought within three years after the tax was due or the return was filed, whichever is later.

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

(Ord. 22-03. Passed 12-16-03.)

191.21 BOARD OF TAX APPEALS, NOTICE AND APPEAL; HEARINGS .

(a) There is hereby established a Board of Tax Appeals to hear appeals as provided in this section.

(1) The Board shall consist of five members: the Manager; the Finance Director; and three electors of the Municipality, who shall be appointed by Council.

(2) The Manager shall serve as Chairman of the Board, and shall preside over all meetings of the Board. The Vice Chairman shall be chosen by a vote of the members of the Board, and shall assume the duties of the Chairman in his absence.

(3) The appointed positions shall serve three year terms, provided that the term of one of the members appointed to the first Board shall be for one year and the term of one of the members appointed to the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of said term.

(4) The Board shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 718.11 of the Ohio Revised Code.

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

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

(d) The Board shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

(e) The Board may affirm, reverse, or modify the Tax Director's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

(Ord. 22-03. Passed 12-16-03.)

191.22 ELECTRONIC AVAILABILITY OF RULES, ORDINANCES AND INCOME TAX FORMS.

On and after January 1, 2002, the Municipality will make electronic versions of any rules or ordinances governing the tax available to the public through the Internet, including, but not limited to, ordinances or rules governing the rate of tax; payment and withholding of taxes, filing any prescribed returns, reports, or other documents; dates for filing or paying taxes, including estimated taxes;

penalties; interest, assessment, and other collection remedies; rights of taxpayers to appeal; and procedures for filing appeals. On and after that date, the Municipality will make blanks of such returns, reports, or documents, and any instructions pertaining thereto, available to the public electronically through the Internet. Electronic versions of rules, ordinances, blanks and instructions will be made available either by posting them on the electronic site established by the Ohio Tax Commissioner or by posting them on an electronic site established by the Municipality that is accessible through the Internet.
(Ord. 22-03. Passed 12-16-03.)

191.23 ENFORCEMENT POWERS BY OTHER THAN THE MUNICIPALITY.

Nothing in this chapter shall be deemed to prevent the exercise of any of the powers and duties on any officer or division of the Municipality by any person or agency, including another municipal corporation, with which the Municipality may contract for the administration and/or enforcement of the provisions of this chapter, it being the intent hereof that all enforcement powers granted to any officer or division of the Municipality may be exercised by such contracting party.
(Ord. 22-03. Passed 12-16-03.)

191.24 RENTAL PROPERTY OWNERS' REPORT OF TENANTS.

All property owners, or their authorized agents, who rent property in the Municipality shall submit an up-to-date list of their tenants to the Tax Director within thirty days of any tenancy change. This list shall not be required if the tenants are responsible for their municipal utility payments.
(Ord. 22-03. Passed 12-16-03.)

191.25 CONTRACT PROVISION.

No contract on behalf of the Municipality for works or improvements of the Municipality shall be binding or valid unless such contract contains the following:

"Said _____ hereby further agrees to withhold all municipal income taxes due or payable under the provisions of Chapter 191 of the Johnstown Codified Ordinances for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such municipal income taxes due under this chapter for services performed under this contract."
(Ord. 22-03. Passed 12-16-03.)

191.26 ALLOCATION OF FUNDS.

All funds collected through the income tax shall be receipted into the Municipality's General Fund. The Manager shall cause twenty-seven percent (27%) of all funds collected to be transferred from the Municipality's General Fund to the Municipality's Capital Improvement Fund on a regular basis. (Ord. 22-03. Passed 12-16-03.)

191.27 SEVERABILITY .

If any sentence, clause, section, or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section, or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein. (Ord. 22-03. Passed 12-16-03.)

CODIFIED ORDINANCES OF JOHNSTOWN