

CHAPTER 179
Income Tax

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CROSS REFERENCES

Municipal income taxes - see Ohio R.C. Ch. 718

179.01 PURPOSE.

To provide funds for the purposes of general municipal operation, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City, including the payment of debt service charges on notes and bonds issued for such purposes, there shall be, and hereby is, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided, and such tax, consistently with other provisions hereof, shall be at the rate of one percent (1%) until January 1, 1981 and at the rate of one and one-half percent (1 2%) on and after January 1, 1981.

(Ord. 22-80. Passed 9-2-80.)

179.02 DEFINITIONS.

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

(a) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted in accordance with Section 718.01 A(1) of the Ohio Revised Code.

(b) "Association" means a partnership, limited partnership, cooperative, limited liability company, or any other form of unincorporated enterprise, owned by one or more persons.

(c) "Board of Review" means the Board created by and constituted as provided in Section **179.12**.

(d) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, limited liability company, association, corporation or any other entity.

(e) "Business allocation apportionment" means the portion of net profits to be apportioned to the Municipality as having been made in the Municipality, either under separate accounting

method, or under the three factor formula of property, payroll and sales, provided for in Section 718.02(A), Ohio Revised Code.

(f) "Commissioner" means the individual designated by this chapter, appointed by the Mayor, approved by Council, to administer and enforce the provisions of this chapter.

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

(h) "Domicile" means a person's fixed, permanent and principal place of residence for legal purpose as determined by, but not limited to the address of: vehicles registration, current driver's license registration, federal and state income tax returns, address of voter registration, attendance at schools by person's children.

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

(j) "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.

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

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

(m) "Gambling winnings" means the gross proceeds derived from state-conducted lotteries and non-state conducted sweepstakes, wagering, pools, or lotteries, and other wagering transactions such as para-mutual pool for horse races, dog races and other sporting events, and winnings from (including but not limited to) bingo keno, slot machines, gaming tables, games of skill, fringe gambling and other games of chance.

(n) "Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports, or other documents shall 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.

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

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

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

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

(s) "Municipality" means the City of Port Clinton.

(t) "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 division (F) of Section 718.01, Ohio Revised Code, required to be reported on Schedule C, Schedule E, or Schedule F.

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

(v) "Nonresident" means an individual domiciled outside the City.

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

(x) "Ordinance" or "chapter" means Chapter [179](#) of the Codified Ordinances of Port Clinton.

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

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

(aa) "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (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.

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

(cc) "Person" includes individuals, firms, companies, business trusts, estates, trusts partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, "person", as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.

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

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

(ff) "Reciprocity credit" means the credit granted by the City to its residents for municipal income tax paid to another municipality.

(gg) "Resident" means an individual domiciled in the City.

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

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

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

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

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

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

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

(oo) "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.

(pp) "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 from a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this chapter, rental income and/or net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter, and gambling winnings in excess of six hundred dollars (\$600.00) per year.

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

(rr) "Taxing municipality" means any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals, and on the net profits earned from the operation of a business, profession or other activity.

(ss) "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 includes the plural, and the masculine includes the feminine and the neuter. (Ord. 36-10. Passed 1-25-10.)

179.03 IMPOSITION.

(a) Basis of Imposition. Subject to the provisions of Section [179.15](#), an annual tax for the purposes specified in Section [179.01](#) shall be imposed on and after July 1, 1967, for the period until January 1, 1981, at the rate one percent (1%) and on and after January 1, 1981, at the rate of one and one-half percent (1-1/2%) upon the following:

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

(2) On all qualifying wages, commissions, and 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 sales made, from work done, or from 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 of the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from sales made, from work done, or from 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 sales made, from work done, or from 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;

(6) On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and/or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings;

(7) Rental Income.

A. Rentals from real property.

Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

B. Where the gross monthly rental of any real properties, regardless of number and value, aggregate in excess of two hundred dollars (\$200.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental properties shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred dollars (\$200.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred dollars (\$200.00) per month; and provided further that the person who operates a rooming house or bed and breakfast shall be considered in business whether or not the gross income exceeds two hundred dollars (\$200.00) per month.

1. In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.

2. Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered a part of business income.

3. Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property, and any and all other types of real estate.

4. In determining the taxable income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Internal Revenue Service for Federal income tax purposes.

5. Residents of Port Clinton are subject to taxation upon that net income from rentals (to the extent above specified), regardless of the location of the real property owned.

6. Non-residents of Port Clinton are subject to such taxation only if the real property is situated within the City of Port Clinton. Nonresidents, in determining whether gross monthly rentals exceed two hundred dollars (\$200.00) shall take into consideration only real estate situated within the City of Port Clinton.

7. Corporations owning or managing real estate are taxable only on that portion of income derived from property located within the City of Port Clinton.

(8) Subject to Chapter 5745 of the Ohio Revised Code, the income of an electric company, or combined company, and the income of a telephone company. For the purpose of this Section, combined company, telephone company and electric company have the same meanings as in Section 5727.01 of the Ohio Revised Code.

(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 ratio of the following:

(1) Multiply the entire net profits of the business by a business apportionment percentage formula 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 business apportionment percentage formula provided for herein, the 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) Except as otherwise provided in subsection (e) hereof, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

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

(f) 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 carryback or carryforward.

(g) Consolidated Returns.

(1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Commissioner.

(2) 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, or in case any person operates a division, branch, factory, office, laboratory or activity within Port Clinton constituting a portion only of its total business, the Commissioner shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to Port Clinton. If the Commissioner finds net profits are not properly allocated to Port Clinton by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation of net profits to Port Clinton.

(h) Exclusions. The provisions of this chapter shall not be construed as levying a tax upon the following:

(1) Proceeds from welfare benefits, unemployment insurance benefits, pensions, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(2) 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.

(3) Compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.

(4) Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.

(5) 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).

(6) Alimony.

(7) Compensation for damage to property by way of insurance or otherwise.

(8) Interest and dividends from intangible property.

(9) 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 (ORC 718.01).

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

(14) 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.

(15) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.

(16) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.

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

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

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

If compensation is paid to an individual for personal services performed by the individual in the Municipality on thirteen or more days in a calendar year, then the individual and his employer, if any, shall be subject to the income tax chapter and regulations of the Municipality and shall file such returns and withhold and remit such taxes as are required by Chapter [179](#) of the Codified Ordinances of the Municipality, and the regulations adopted pursuant thereto.

(18) 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 the Municipality shall tax the following, subject to Chapter 5745 of the Ohio Revised Code:

A. The income of an electric company or combined company;

B. The income of a telephone company.

As used in subsection (h)(18) hereof, "combined company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised 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.

(21) The personal earnings of any person under eighteen years of age for the entire year.

(i) Residents and non-residents of Port Clinton who are able to itemize deductions on their federal income tax return and deduct thereon unreimbursed employee business expenses, and who meet all requirements set forth by the Internal Revenue Code and the Internal Revenue Service under "Who must file form 2106", will be allowed a deduction for 2106 expenses as set forth herein only as to the employee income to which the 2106 expenses apply. In support of the 2106 deduction, the taxpayer must furnish copies of their federal form 2106, federal form Schedule A as filed with the Internal Revenue Service, and both pages of Federal Income Tax form 1040. The deductible 2106 expenses are allowable only on those wages on which Port Clinton City Income tax is paid and must further be reduced by 2% of the taxpayer's Port Clinton adjusted gross income.

(Ord. 38-03. Passed 12-23-03.)

179.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of persons, businesses, professions or other activities earned from and after July 1, 1967, and prior to January 1, 1981, at the rate of one percent (1%) and from and after January 1, 1981, at the rate of one and one-half percent (1 2%).

(Ord. 22-80. Passed 9-2-80.)

179.05 RETURN AND PAYMENT OF TAX.

(a) Each person who engages in business or other activity or whose qualifying wage, commissions, other compensation, and other taxable income is subject to the tax imposed by this Tax Code, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this Tax Code, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period. The Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Commissioner, may be accepted as the return required of any employee whose sole income, subject to tax under this Tax Code, is such qualifying wage, commissions, other compensation, and other taxable income.

(b) A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the Municipal return regardless of whether their federal and state returns were filed separately or jointly. If a joint City return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.

(c) The return shall be filed with the Commissioner on a form or forms furnished by or obtainable upon request from the Commissioner, or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.

(d) The return shall set forth:

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

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

(3) Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Commissioner may require, including a statement

that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(e) (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Municipal Income Tax Return by filing a copy of the taxpayer's federal extension request with the Municipal Tax Division. Any taxpayer not required to file a federal income tax return may request an extension for filing a Municipal Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

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

- A. Fails to timely file the request; or
- B. Fails to file a copy of the federal extension request (if applicable); or
- C. Owes the Municipality any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or
- D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

(3) The granting of an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section [179.10](#). No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination, it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

(f) Payments With Returns.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the 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 Section [179.06](#); and
- B. Any portion of said tax which shall have been paid by the taxpayer, pursuant to the provisions of Section [179.07](#); and
- C. Credit to the extent allowed by Section [179.14](#) for tax paid to another municipality.

(2) Any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code, such overpayment shall first be applied against any existing tax liability and the balance, if any, at the election of the taxpayer may have such overpayment applied against any subsequent liability hereunder or, as indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

(g) Amended Returns:

(1) Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections [179.11](#) and [179.14](#). The Commissioner shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

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

(Ord. 38-03. Passed 12-23-03.)

179.06 COLLECTION AT SOURCE.

(a) Withholding by Employer. Each employer within, or doing business within, the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, or set aside, the tax at the rate provided in Section 179.03 hereof on the qualifying wages due by such employer to each such employee and shall, on or before the last day of the month following such withholding, make a return and payment to the Commissioner of the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Commissioner and shall be subject to the Rules and Regulations prescribed by the Commissioner. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages.

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

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

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

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

(e) So long as the taxes withheld by an employer for the Municipality during the measurement period are less than ten thousand dollars (\$10,000) per month, payments may be made quarterly on or before the last day of the month following the end of each quarter, subject to the approval of the Commissioner. The Commissioner may revoke the approval of quarterly filing and payments whenever the Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this section.

(f) Employer Considered as Trustee. Each employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality, and any such tax collected by such employer from his employees

shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

(g) Any person who is required to withhold tax from qualifying wages shall pay all such tax to the Municipality in accordance with the provisions of this section. In the event taxes withheld from the qualifying wages of employees are not paid to the Municipality in accordance with the provisions of this section, all officers, members, managers, employees, and trustees having control or supervision of or charged with the responsibility of filing the return and making payment are jointly and severally personally liable for the tax not returned or paid to the Municipality as well as any related interest and penalties, and are also liable under the provisions of Section [179.99](#) hereof. The dissolution, termination or bankruptcy of a corporation, limited liability company, or business trust does not discharge an officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or pay said taxes.

(h) Withholding Return: List of Employees. Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year and the amount of Municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28 following the end of such calendar year.

(i) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed shall also report such payments to the Municipality when the services were performed in the Municipality. Further, any person who pays out any gambling winnings, as defined in this code, who is required by the Internal Revenue Service to report such payments on forms W-2G, 5754, 1099-MISC, or any other form required by the Internal Revenue Service, shall also file a copy of such form(s) reporting such payments with the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number) and the amount of such payments made. Federal form (s) W-2G, 5754 and/or 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(Ord. 36-10. Passed 1-25-10.)

179.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section [179.06](#), or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section [179.03](#) 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 qualifying wages from which the tax will be withheld and remitted to the City of Port Clinton in accordance with Section [179.06](#), or if the tax which the taxpayer would pay under this chapter is fifty dollars (\$50.00) or less, such person, need not file a declaration.

(b) Dates for Filing.

(1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.

(c) Forms; Credit for Tax Withheld or Paid Another Community.

(1) Such declaration shall be filed upon a form furnished by or obtainable from the Commissioner or an acceptable generic form, and credit shall be taken for the Municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section [179.14](#), credit may be taken for tax to be withheld and remitted to another taxing municipality.

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

(3) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

(4) For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(5) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

(d) Amended Declaration.

(1) A declaration may be amended at any time.

(2) In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) Annual Return Required. On or before the fifteenth (15th) day of the fourth (4th) month following the end of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section [179.05](#).

(Ord. 38-03. Passed 12-23-03.)

179.08 DUTIES OF THE COMMISSIONER.

(a) (1) The Commissioner of Taxation shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; shall keep an accurate record thereof; and shall report all moneys so received.

(2) The Commissioner shall enforce payment of all taxes owing Port Clinton, shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and shall show the dates and amounts of payments thereof.

(b) The Commissioner is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

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

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections [179.11](#) and [179.99](#) shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due the Commissioner may determine the amount of tax appearing to be due Port Clinton from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(Ord. 19-67. Passed 5-9-67.)

179.09 INVESTIGATIVE POWERS OF THE COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

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

(b) The Commissioner is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should 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) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any persons to comply with the provisions of this section or with an order or subpoena of the Commissioner authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section [179.99](#).

(d) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Port Clinton who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

(Ord. 19-67. Passed 5-9-67.)

179.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all money withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof.

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

(1) For failure to pay taxes due, other than taxes withheld; one and one-half percent (1.5%) per month or fraction thereof, with a minimum of twenty-five dollars (\$25.00) per month.

(2) For failure to remit taxes withheld from employees, six percent (6%) per month or fraction thereof, with a minimum of twenty-five dollars (\$25.00) per month.

(3) For failure to timely file a tax return due under this chapter, there shall be a late filing charge of fifty dollars (\$50.00) imposed per return.

(4) For failure to file a declaration of estimated tax or failure to pay according to the filed declaration as required by Section [179.07](#), there shall be a penalty of fifty dollars (\$50.00) per calendar year imposed.

(5) For any taxpayer who files a Declaration of Estimated Tax, and whose Declaration of Estimated Tax and payment of tax thereunder is less than ninety percent (90%) of the taxpayers total tax obligation for the tax year, a penalty of fifty dollars (\$50.00) per tax year shall be imposed and paid at the time of filing tax return.

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

(d) Upon recommendation of the Commissioner, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Commissioner to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both. (Ord. 30-02. Passed 12-23-02.)

179.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) (1) All taxes imposed by this Chapter shall be collectible, together with any interest, penalties and administrative fees thereon, by suit, as other debts of like amount are recoverable, provided civil suit shall be brought within three years after the tax was due, or the return was filed, whichever is later. Except in the case of fraud, the omission of twenty-five percent or more of income required to be reported on a tax return, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Commissioner shall be one year from the time of the final determination of the federal tax liability.

(2) An administrative fee equal to thirty-five percent (35%) of the total delinquent amount owed by a taxpayer shall be added to the delinquent amount if such delinquent amount is assigned to an authorized agent of the City for collection.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years after the tax return was due or the return was filed, or within three months after final determination of the federal tax liability, whichever is later.

(c) Amounts of less than five dollars (\$5.00) shall not be collected or refunded. (Ord. 28-08. Passed 11-11-08.)

179.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of three members, a chairman and two other individuals, to be appointed by the Mayor and approved by Council, is hereby created and shall be maintained to hear appeals. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall be conducted privately and the provisions of Section [179.09](#) with reference to the confidential character of information required to be disclosed by the chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and regulations and amendments or changes thereto which are adopted by the Commissioner under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. After such approval, such rules, regulations, amendments and changes shall be filed with the Clerk of Council and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Commissioner, and, at the request of the taxpayer or Commissioner, is empowered to substitute alternate methods of apportionment.

(c) Whenever the Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Commissioner shall notify the taxpayer in writing 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.

(d) Any person who is aggrieved by a decision by the Commissioner and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Commissioner has issued the decision.

(e) The imposition of penalty and interest as prescribed in the Codified Ordinances of the Municipality is not a sole basis for appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) 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.

(g) The Board may affirm, reverse, or modify the Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Commissioner may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(h) Each Board of Review created pursuant to this section 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 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code.

(Ord. 38-03. Passed 12-23-03.)

179.13 ALLOCATION OF FUNDS.

The funds collected under provisions of this chapter shall be applied to the following purposes:

(a) Such part thereof as necessary to defray all costs of collecting the taxes levied by this chapter and the costs of administering and enforcing the provisions thereof.

(b) After allowing for such costs of collection, administration and enforcement, a sum equal to the amount of taxes collected at a rate of one and one-half percent (1 ½ %) per year shall, unless

otherwise directed by Council, for the calendar year 2011, be allocated eighty-five percent (85%) to the General Fund for general operating expenses and fifteen percent (15%), as may be appropriated by ordinance passed by Council, for purposes of maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, including the payment of debt service charges on notes and bonds issued for such purposes, and all transfers of income tax monies to these funds made after January 1, 2011, and prior to the effective date of this provision, shall be adjusted in accordance with the above specified percentages.

Commencing January 1, 2012, after allowing for such costs of collection, administration and enforcement, a sum equal to the amount of taxes collected at a rate of one and one-half percent (1 ½ %) per year shall, unless otherwise directed by Council, be allocated eighty percent (80%) to the General Fund for general operating expenses and twenty percent (20%), as may be appropriated by ordinance passed by Council, for purposes of maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, including the payment of debt service charges on notes and bonds issued for such purposes. (Ord. 01-11. Passed 2-8-11.)

**179.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY;
CONTRACTS.**

(a) When the taxable income of a resident taxpayer of the City is subject to a municipal tax in another municipality on the same income taxable under this chapter, if it is made to appear that the taxpayer has paid a municipal income tax to the other municipality, the taxpayer shall be allowed a credit of the amount of income tax paid on the same taxable income to the other municipality not to exceed 1% of the tax paid to the other municipality. For the purposes of this section taxable income shall be as defined in Section [179.02](#).

(b) A claim for refund or credit under this Section shall be made in such manner as the Tax Commissioner may by regulation provide.

(c) Contract Provisions. No contract on behalf of the City for works or improvements of the City 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 [179](#) of the Codified Ordinances of the City of Port Clinton for wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to withhold any municipal income taxes due under such chapter for services performed under this contract”

(Ord. 35-05. Passed 12-20-05.)

179.15 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such 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 the 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. 19-67. Passed 5-9-67.)

179.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until revoked, and, insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter,

shall have been fully terminated, subject to the limitations contained in Sections [179.11](#) and [179.99](#).

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections [179.05](#) and [179.06](#) as though the same were continuing. (Ord. 22-80. Passed 9-2-80.)

179.99 VIOLATIONS AND PENALTIES.

(a) Any person who:

- (1) Fails, neglects or refuses to make any return or declaration required by this chapter; or
- (2) Makes any incomplete, false or fraudulent return; or
- (3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Commissioner; or
- (5) Refuses to permit the Commissioner or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fails to appear before the Commissioner and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Commissioner; or
- (7) Refuses to disclose to the Commissioner any information with respect to the income or net profits of a taxpayer; or
- (8) Fails to comply with the provisions of this chapter or any order or subpoena of the Commissioner authorized hereby. or
- (9) Gives to an employer false information as to his true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fails to use ordinary diligence in maintaining proper records of employee residence addresses, total wages paid and Port Clinton tax withheld, or to knowingly give the Commissioner false information; or
- (11) Neglects, fails, or refuses to make any payment on the estimated tax for any year or part of any tax year as required by Section [179.07](#); or
- (12) Fails to cause the tax withheld from the qualifying wages of the employees pursuant to this chapter to be paid to the Municipality in accordance with the provisions of Section [179.06](#); or
- (13) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined not more than one hundred dollars (\$100.00); on a second offense within two years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both, for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and punished as provided for herein.

(b) All prosecutions under this section shall be commenced within the time specified in Ohio R.C. 718.12.

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

(d) Statute of Limitations. Civil actions to recover Municipal income taxes and penalties and interest on Municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

(e) The term "person" as used in this section shall, in addition to the meaning prescribed in Section [179.02](#), include in the case of an association or corporation not having any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.
(Ord. 38-03. Passed 12-23-03.)

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