

**CHAPTER 93A: MUNICIPAL INCOME TAX REGULATIONS
EFFECTIVE BEGINNING JANUARY 1, 2016**

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§ 93A.01 DEFINITIONS.

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

ADJUSTED GROSS INCOME. As defined in R.C. § 5747.01 as it now is and as it may be amended from time to time, adjusted as follows:

(1) Deduct income from Ohio municipal pensions and State of Ohio pensions, received on account of retirement, to the extent that such income has been included in Ohio adjusted gross income;

(2) Deduct income (other than income under division (1) above) from retirement benefits, annuities, or distributions from a pension, retirement, or profit sharing plan, received on account of retirement, but only to the extent that such income has been included in Ohio adjusted gross income, and only to the extent that such income entitles the taxpayer to claim the Ohio retirement income credit on the taxpayer's Ohio income tax return, and the amount of such deduction not to exceed \$4,000 on a cumulative basis in any taxable year;

(3) Add an amount equal to any deduction taken from Ohio adjusted gross income pursuant to R.C. § 5747.01(A)(31).

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

BOARD OF REVIEW. The board created by and constituted as provided in § 93A.11.

BUSINESS. An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit,

whether by an individual, partnership, association, corporation, or any other entity.

CORPORATION. A corporation or joint stock association organized under the laws of the United States, the state, or any other state, territory, or foreign country or dependency.

EMPLOYEE. One who works for wages, salary, commission, or other type of compensation in the service of an employer.

EMPLOYER. 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.

FISCAL YEAR. An accounting period of 12 months or less ending on a day other than December 31.

GENERIC FORM. An electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.

GROSS RECEIPTS. The total income from any source whatsoever.

NET PROFITS. A net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.

PART-YEAR-RESIDENT INDIVIDUAL. An individual who resides in the village for any part of, but less than the entire, taxable year.

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

PERSON. 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 partners or members thereof, and as applied to corporation, the officers thereof.

PLACE OF BUSINESS. 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 employees regularly in attendance.

RESIDENT BUSINESS ENTITY. A business entity having an office or place of business within the village.

RESIDENT INDIVIDUAL. An individual who resides in the village for the entire taxable year.

RETURN PREPARER. 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.

TAX COMMISSIONER. The individual designated by this chapter, appointed by the City Manager, to administer and enforce the provisions of this chapter.

TAXABLE YEAR. The calendar year or the fiscal year upon the basis of which adjusted gross income is to be computed under this chapter, and, in the case of a return for a fractional part of a year, the period for which the return is required to be made.

TAXPAYER. A person, whether an individual, partnership, association, or any corporation or other entity required hereunder to file a return or pay a tax.

(Ord. 07-15, passed 12-14-15)

§ 93A.02 PURPOSE.

(A) To provide funds for the general fund for general municipal operations, projected capital requirements and the establishment of adequate reserves for the normal operations of the village, there is levied, subject to any exemptions the village may enact that are permitted for qualified municipal corporations under R.C. § 718.01(A)(1)(b)(ii), an annual tax on the income of every person residing in

the village. The tax shall be measured by municipal taxable income, as that term is defined in R.C. § 718.01(A).

(B) The tax is levied in accordance with, and shall be interpreted consistent with, the limitations specified in Chapter 718 of the Ohio Revised Code, and this chapter hereby incorporates the provisions of Chapter 718 of the Ohio Revised Code. To the extent a conflict exists between a provision in this chapter and a provision in Chapter 718 of the Ohio Revised Code, the provision in Chapter 718 of the Ohio Revised Code shall apply and control.

(Ord. 07-15, passed 12-14-15)

§ 93A.03 IMPOSITION OF TAX.

(A) An annual tax for the purposes specified in § 93A.02 shall be imposed at the rate of 0.575% per annum upon the following:

(1) Resident individuals. On the individual's adjusted gross income.

(2) Part-year- resident individuals. On a prorated portion of the individual's adjusted gross income, which proration shall be based on the number of days that the individual resides in the village during the taxable year; provided that in the case of an individual who claims the Part- Year Resident Credit on Nonresident Credit on his or her Ohio income tax return for the taxable year, it shall be presumed that the portion of the individual's adjusted gross income that is subject to the tax is equal to the individual's adjusted gross income for the taxable year minus the portion that was not earned or received in Ohio, as that portion not earned or received in Ohio is reported on the individual's Ohio income tax return for the same taxable year.

(3) Resident C corporations. On all net profits earned during the effective period of this chapter of all resident C corporations.

(4) S corporation shareholder's distributive share. On an S corporation shareholder's distributive share of net profits of an S corporation.

The tax is imposed on the owners of a pass-through entity rather than on the pass-through entity. No tax shall be imposed under § 93A.03(A)(1), (A)(2), and (A)(3) if the adjusted gross income of an individual or net profits of a C Corporation does not exceed \$5,000 in the taxable year.

(B) Consolidated returns.

(1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the tax imposed by this chapter in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.

(a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law;

(b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or

(c) A taxpayer received permission from the tax commissioner. The tax commissioner shall approved such a request for good cause shown.

(2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.

(3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(4) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the tax commissioner determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the tax commissioner to file a separate

return or a taxpayer has experienced a change in circumstances.

(5) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the village in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(6) Corporations and their affiliates that made an election or entered into an agreement with the village before January 1, 2016, to file a consolidated or combined tax return with the village may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on or after January 1, 2016.

(Ord. 07-15, passed 12-14-15)

§ 93A.04 EFFECTIVE PERIOD.

The tax shall be levied, collected, and paid in accordance with this chapter from September 1, 1973 until repealed by action of the Council.

(A) Procedural history; effective date.

(1) Significant and wide-ranging amendments to R.C. Chapter 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and Am Sub HB 64, passed by the 131st General Assembly, and signed by Governor Kasich on June 30, 2015. These amendments required municipal corporations to conform to and adopt the provisions of R.C. Chapter 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(2) As mandated by the above amendments, Council Ordinance 07-15, effective January 1, 2016, comprehensively amends Chapter 93 in accordance with the provisions of R.C. Chapter 718 to allow the village to continue the income tax and withholding tax administration and collection efforts on behalf of the village.

(3) Ordinance 07-15, effective January 1, 2016, and corresponding changes to R.C. Chapter 718, apply to taxable years beginning on or after January 1, 2016. All provisions of this Chapter 93A apply to taxable years beginning 2016 and succeeding taxable years.

(4) Ordinance 07-15 does not repeal the existing sections of Chapter 93 for any taxable year prior to 2016, but rather amends Chapter 93 effective January 1, 2016. For taxable years beginning before January 1, 2016, the village shall continue to administer, audit, and enforce the income tax of the village under R.C. Chapter 718 and ordinances and resolutions of the village as that Chapter 718 and those ordinances and resolutions existed before January 1, 2016.

(B) Time for filing. Each taxpayer, except as herein provided, 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 chapter, and on or before April 30 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 by the fifteenth day of the fourth month following the end of such fiscal year or period.

(C) Returns and contents thereof. The return shall be filed with the tax commissioner on a form or forms prescribed by or obtainable upon request from the tax commissioner or a generic form setting forth:

(1) The aggregate amount of gross income, plus or minus adjustments, earnings, and profits during the preceding taxable year and subject to the tax;

(2) The amount of the tax imposed by this chapter on such gross income, earnings, and profits;

(3) Any of the following, as the tax commissioner may require:

(a) A taxpayer who is an individual may be required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported, or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or Ohio IT 1040; and

(b) A taxpayer that is not an individual may be required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, and other documentation necessary to support the refund request or the adjustments made in the amended return;

(4) Each individual return shall have attached to it a copy of the taxpayer's Ohio State Individual Income Tax return for the same year.

(D) Extensions.

(1) Any taxpayer that has duly requested, an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(2) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(3) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax commissioner on or before the date the municipal income tax return is due, the tax commissioner shall grant the taxpayer's requested extension.

(4) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the tax commissioner grants an extension of that date.

(5) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of R.C. § 5747.08, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

(E) Payment with returns.

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the tax commissioner the amount of taxes shown as due thereon; provided, that where any portion of the tax so due shall have been paid by the taxpayer pursuant to the provisions of § 93A.06 the amount shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(2) Overpayments and refunds. A taxpayer who has over-paid the amount of tax to which the village is entitled under the provisions of this chapter may have the overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, the overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than \$10 shall be collected or refunded.

(F) Amended returns.

(1) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in §§ 93A.09 and 93A.13. The amended returns shall be on a form obtained on request from the tax commissioner. 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 60 days after the final determination of any federal or state tax liability affecting the taxpayer's Indian Hill, Ohio, tax liability, the taxpayer shall make and file an amended return showing income subject to the village tax based upon the final determination of federal or state tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(Ord. 07-15, passed 12-14-15)

§ 93A.05 TAXES PAID TO OTHER MUNICIPALITIES.

It is the intention of this chapter that no deduction or credit be given for municipal income taxes paid to any other municipality.

(Ord. 07-15, passed 12-14-15)

§ 93A.06 DUTIES OF THE TAX COMMISSIONER.

(A) Collection.

(1) It shall be the duty of the tax commissioner to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received.

(2) Maintenance of records. It shall be the duty of the tax commissioner to enforce payment of all taxes owing to the village, to 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 to show the dates and amounts of payments thereof. It shall be the duty of the tax commissioner to destroy any or all returns or other tax documents in the manner authorized by law.

(B) Enforcement. The tax commissioner is 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 to 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 reexamination and correction of returns.

(C) Determination of amount of taxes.

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

(2) The tax commissioner may exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting, or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the tax commissioner may investigate any claim of overpayment and make a written statement of the tax commissioner's findings, and, if the tax commissioner finds that there has been an overpayment, approve and issue and refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter.

(D) Compromise of tax claims, penalty, interest, or all. Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the tax commissioner shall have the power to compromise any tax claim, interest, penalty, or all, imposed by § 93A.08.

(E) The tax commissioner may appoint agents and prescribe their powers and duties.

(F) The tax commissioner may confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law.

(G) The tax commissioner may exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with § 93A.09 of this chapter.

(Ord. 07-15, passed 12-14-15)

§ 93A.07 INVESTIGATIVE POWER OF THE TAX COMMISSIONER; IDENTIFICATION INFORMATION; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(A) Examination of records. The tax commissioner, or any authorized employee, is authorized to examine the books, papers records, and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the tax commissioner believes is subject to, the provisions of this chapter, for the 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 tax commissioner, or his duly authorized agent or employee, the means, facilities, and opportunity for making the examinations and investigations as are hereby authorized.

(B) Power to order appearance of taxpayer. The tax commissioner is authorized to order any person presumed to have knowledge of the facts to appear before him and may examine the person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect the 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 the income or information pertinent to the inquiry. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This Section 93A.07(B) does not authorize the practice of law by a person who is not an attorney.

(C) Identifying Information. When transmitting or otherwise making use of a tax document that contains a person's social security number, the tax commissioner shall take all reasonable measures necessary to ensure that the number is not capable of being viewed by the general public, including, when necessary, masking the number so that it is not readily discernible by the general public. The tax

commissioner shall not put a person's social security number on the outside of any material mailed to the person.

(D) Failure to submit identifying information required by tax commissioner.

(1) If the tax commissioner makes a request for identifying information and the tax commissioner does not receive valid identifying information within 30 days of making the request, nothing in this chapter prohibits the tax commissioner from imposing a penalty upon the person to whom the request was directed pursuant to § 93A.08, in addition to any applicable penalty described in § 93A.99 of this chapter.

(2) If a person required by the tax commissioner to provide identifying information does not notify the tax commissioner of a change

with respect to that information as required under division (A) of this section within 30 days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the tax commissioner from imposing a penalty pursuant to § 93A.08 of this chapter.

(3) The penalties provided for under divisions (D)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in § 93A.99 of this Chapter 93A for fraud and any other penalties that may be imposed by the tax commissioner by law.

(E) Failure to submit information required by tax commissioner. The refusal to produce books, papers, records, and federal income tax returns, or the refusal to submit to the 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 person to comply with the provisions of this section or with an order or subpoena of the tax commissioner authorized hereby shall be deemed a violation of this chapter, punishable as provided in § 93A.10.

(F) Confidential nature of information; penalty for disclosure.

(1) Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with the proper judicial order. Any person divulging the information in violation of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than \$1,000 or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(G) Retention of records. Each and 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. 07-15, passed 12-14-15)

§ 93A.08 INTEREST AND PENALTIES.

(A) Interest. All taxes imposed and all moneys 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 minimum rate permitted under R.C. § 718.27 per annum, or fraction thereof.

(B) Penalties. In addition to interest as provided in division (A) of this section, penalties based on the unpaid tax are hereby imposed as follows:

(1) For failure to pay taxes due, other than taxes withheld, the penalty permitted by R.C. § 718.27(C)(2)(a), as amended from time to time.

(2) For failure to remit taxes withheld from employees, the penalty permitted by R.C. § 718.27(C)(2)(b), as amended from time to time.

(C) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the tax commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the tax commissioner 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 a final determination of the federal tax

liability.

(D) Abatement of penalty, interest, or both. Upon recommendation of the tax commissioner or upon appeal from the refusal of the tax commissioner to so recommend, the Board of Review may abate penalty or interest, or both.

(E) In addition to the foregoing penalties, a penalty provided in R.C. § 718.27(C), as amended from time to time, against all taxpayers who fail to file a return within the time period in this chapter.

(F) By the thirty-first day of October of each year the village shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(Ord. 07-15, passed 12-14-15)

§ 93A.09 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(A) Limitation on actions. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after the later of: (1) three years after, the tax was due or the return was filed, whichever was later, and (2) one year after the conclusion of any qualifying deferral period, as defined in R.C. § 718.12(A)(1)(b)(2); except that, in those cases in which the Commissioner of internal revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period in which an additional assessment may be made by the Commissioner shall be one year from later of the time of the final determination of the federal tax liability and the time when the taxpayer files an amended municipal return as required by R.C. § 718.12(E). In cases of fraud, failure to file a return, or the omission of 25% or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(B) Minimum amount of tax to be collected. Amounts of less than \$10 shall not be collected or refunded.

(C) Time limitation on refunds.

(1) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which the payment was made or the return was due, whichever is later.

(2) On filing of the refund request, the tax commissioner shall determine the amount of refund due and certify such amount to the appropriate village official for payment. Except as provided in division (C)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If the tax commissioner denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the tax commissioner shall notify the taxpayer, in writing of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under R.C. § 718.11.

(D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request;

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal 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 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in R.C. § 718.27(A)(5).

(F) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon to make a claim for refund for any overpayment, unless the tax or overpayment is less than \$10.

(Ord. 07-15, passed 12-14-15)

§ 93A.10 VIOLATIONS.

(A) No person shall:

- (1) Fail, neglect, or refuse to make any return required by this chapter; or
- (2) Knowingly make any incomplete, false, or fraudulent return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this chapter; or
- (4) Fail, neglect, or refuse to withhold the tax from his employees or remit such withholding to the tax commissioner; or
- (5) Refuse to permit the tax 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) Fail to appear before the tax 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 tax commissioner; or
- (7) Refuse to disclose to the tax commissioner any information with respect the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the tax commissioner authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid, and village tax withheld, or to knowingly give the tax commissioner false information; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties, or interest imposed by this chapter.

(B) All prosecutions under § 93A.10(A)(11) must be commenced within three years from the date of the offense complained of except in the case of failure to file a return, in the case of filing a fraudulent return or in the event of the omission of 25% or more of income required to be reported, in which event the limitation of time within which prosecution must be commenced shall be six years from the commission of the offense.

(C) Failure to obtain forms not a defense. 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 the form, or from paying the tax.

(D) For purposes of this section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(E) For the purposes of this section, the term "person" shall, in addition to the meaning prescribed in § 93A.01, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this chapter.

(Ord. 07-15, passed 12-14-15)

§ 93A.11 BOARD OF REVIEW.

(A) Procedures. A Board of Review is hereby created and shall consist of a chairman and two other individuals. The chairman

shall be appointed by the Mayor and may be an employee of the village, but may not be the director of finance or equivalent officer, or the tax commissioner or other similar official or employee directly involved in municipal tax matters, or any direct subordinate thereof. The other two individuals, who may not be employees, elected officials, or contractors with of the village at any time during their term or in the five years immediately preceding the date of appointment, shall each to be appointed by the Council.

(B) Terms and vacancies.

(1) The term for members of the Board of Review appointed by the Council shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the Mayor of the village shall serve at the discretion of the Mayor.

(2) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.

(3) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(4) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

(5) If a member is temporarily unable to serve on the board due to conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(C) 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 proceedings. Any hearing by the Board may be conducted privately and the provisions of § 93A.07(F) concerning the confidential nature of certain information shall apply to such matters as may be heard before the Board of Review. Records of proceedings are not public records available for inspection under R.C. § 149.43. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to R.C. § 121.22.

(D) Powers of the Board. All rules and regulations and amendments or changes thereto, which are adopted by the tax commissioner under the authority conferred by this chapter, must be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the tax commissioner, and at the request of the taxpayer or tax commissioner, is empowered to substitute alternate methods of allocation. The Board, on hearing, has jurisdiction to affirm, reverse, or modify any ruling or decision of the tax commissioner or any part thereof.

(E) Appeal procedure.

(1) Whenever the tax commissioner issues an assessment regarding an income tax obligation or denies a refund claim, the tax commissioner shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment or denial and of the manner in which the taxpayer may appeal the decision, and the address to which the appeal should be directed.

(2) Any person who is aggrieved by an assessment of the tax commissioner may appeal the assessment to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(3) The Board of Review shall schedule a hearing within 60 days after receiving the request for appeal, unless the taxpayer requests additional time to prepare or waives a hearing.

(4) 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. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(5) The Board may affirm, reverse, or modify the tax commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within 90 days after the Board's final hearing on the appeal and send notice of its decision by ordinary mail to

the petitioner within 15 days after issuing the decision.

(Ord. 07-15, passed 12-14-15)

§ 93A.12 ALLOCATION OF FUNDS.

The funds to be derived from the enforcement of this chapter shall be allocated in accordance with the determination of the Council by ordinances passed from time to time and pursuant to the Home Rule Charter of the village.

(Ord. 07-15, passed 12-14-15)

§ 93A.13 EXTENSION OF EFFECTIVE PERIOD.

(A) This chapter shall be effective insofar as the collection of taxes levied and actions or proceedings under this chapter are concerned, until all the taxes are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, provided the actions are taken in accordance with the limitations previously set forth herein.

(B) Time of filing annual returns. Annual returns due for all or any part of the term of this chapter shall be due on the date provided in § 93A.04 as though the same were continuing.

(Ord. 07-15, passed 12-14-15)

§ 93A.99 PENALTY.

(A) Whoever violates any provision of § 93A.10(A) shall be guilty of a misdemeanor and fined not more than \$1,000 or imprisoned not more than six months, or both, for each offense.

(B) Any person who discloses information received from the Internal Revenue Service in violation of R.C. § 718.13(A) shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both.

(Ord. 07-15, passed 12-14-15)