

GREENHILLS INCOME TAX ORDINANCE

#1032, Passed March 25, 1970

To provide funds for general operations and permanent improvement by levying a tax on all salaries, wages, commissions, and other compensation earned by residents; on all salaries, wages, commissions, and other compensation earned by non-residents for work done or services performed in the City of Greenhills; on the net profits of all unincorporated businesses, professions, or other entities from sales made, work done, and services performed, or business or other activities conducted, in the City of Greenhills, whether or not such unincorporated businesses, professions, or other entities have an office or place of business in the City of Greenhills; on a resident's professions, or other entity, whether located in or outside the City of Greenhills, not attributable to Greenhills; and on the net profits of all corporations from sales made, work done, and services performed, or business or other activities conducted in the City of Greenhills, whether or not such corporations have an office or place of business in the City of Greenhills; requiring the filing of returns and the furnishing of information by employers and all those subject to said tax; imposing on employers the duty of collecting the tax at the source and paying the same to the City of Greenhills; providing for the administration, collection, and enforcement of said tax; declaring violations thereof to be misdemeanors, and imposing penalties therefore; and declaring an emergency to exist.

191.01 PURPOSE

To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the Municipality, there is hereby levied a tax on salaries, wages, commissions, and other compensation, and on net profits as provided in this chapter.

191.02 DEFINITIONS

As used in this chapter, the following words have the meaning ascribed to them in this section, except if the context clearly indicates or requires a different meaning. The singular includes the plural and the masculine includes the feminine and the neuter.

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Board of Review" means the Board created by and constituted as provided for in Section 191.12.
- (c) "Business" means 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.
- (d) "Corporation" means a 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.
- (e) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (f) "Employee" means one who works for wages, salary, commission or other types of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, and including the officers and resident managers, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

- (h) "Fiscal year" means an accounting period of twelve months ending on any day other than December 31.
- (i) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (j) "Generic Form" means 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.
- (k) "Gross receipts" means the total income of taxpayers from whatever source derived.
- (l) "Intangible income" means income of any of the following types: income yield, interest, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701, of the Ohio Revised Code.
- (m) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (n) "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical subnetwork known as the world wide web.
- (o) "Joint Economic Development District" means districts created under the Ohio Revised Code Sections 715.70 and 715.71, as amended from time to time.
- (p) "Municipality" or "Village" means the Village of Greenhills, Ohio.
- (q) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses, authorized by this chapter, either paid or accrued in accordance with the provisions of this chapter and the rules and regulations set forth by the Tax Commissioner, without deduction of taxes imposed by this chapter, Federal, State, and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; 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.
- (r) "Nonresident" means a person, whether an individual, association, corporation or other entity, domiciled outside the Municipality.
- (s) "Other Payer" means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.
- (t) "Person" means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, "Person," as applied to any association, includes the partners or members thereof, and as applied to corporations, the officers thereof.
- (u) "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 employees regularly in attendance.
- (v) "Resident" means a person, whether an individual, association, corporation or other entity, domiciled in the Municipality.
- (w) "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 a taxpayer.
- (x) "Schedule C" means Internal Revenue Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
- (y) "Tax Commissioner" means the Tax Commissioner of the Municipality or the person executing the duties of the Commissioner.

- (z) "Taxpayer" means a person, whether an individual, partnership, association, corporation or other entity, required by this chapter to file a return or pay a tax.
- (aa) "Tax year" means the calendar year or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (bb) All references to Tax Commissioner in this chapter shall be amended to mean and read "Finance Director."

191.03 IMPOSITION OF TAX

- (a) Tax Levied. Subject to the provisions of Section 191.16, an annual tax, for the purposes specified in Section 191.01 is hereby levied after December 31, 1976, at the rate of one percent (1%) per year on the following:
 - (1) On all salaries and wages, including sick pay and vacation pay, commissions and stock options, nonqualified pension plans or other compensation when included on I.R.S. Form W-2 or I.R.S. Form 1099 earned during the effective period of this chapter by residents.
 - (2) On all salaries and wages, including sick pay and vacation pay, commissions and stock options, nonqualified pension plans or other compensation when included on I.R.S. Form W-2 or I.R.S. Form 1099 earned during the effective period of this chapter, by nonresidents, for work done or services performed in the Municipality.
 - (3) On the amount received as gambling winnings and reported on IR.S. Form W-2G or I.R.S. Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling. Gambling includes but is not limited to bingo, keno, slot machines, casino games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions, during the effective period of this chapter by resident.
 - (A) On the portion attributable to the Municipality of the net profits earned during the effective period of this chapter of all resident associations, unincorporated businesses, professions of other entities, derived from sales made, work done or services performed or rendered, or business or other activities conducted in the Municipality.
 - (B) On a resident partner's or owner's share of the net profits earned during the effective period of this chapter or a resident association or other unincorporated entity not attributable to the Municipality and not levied against such association or other unincorporated entity.
 - (4)
 - (A) On the portion attributable to the Municipality of all net profits earned during the effective period of this chapter, of all nonresident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered or business or other activities conducted in the Municipality, whether or not such association or other unincorporated entity has an office or place of business in the Municipality.
 - (B) On a resident partner's or owner's share of the net profits earned during the effective period of this chapter or a nonresident association or other unincorporated entity not

attributable to the Municipality, and not levied against such association or other unincorporated entity.

- (5) On the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done or services performed or rendered, whether or not such corporations have an office or place of business in the Municipality.
- (b) Allocation of Net Profits. Where a person conducts a business both within and outside the Municipality, the portion of the entire net profits of such business to be allocated as having been made within the Municipality may be determined from the records of the business, if such business has bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the Municipality, or at the option of the taxpayer may be determined by the following formula which shall be used if the taxpayer has no bona fide records showing net profits from Greenhills business activities, subject however, to the provisions of subparagraph B. hereof.

Multiply the entire net profits of the business by a business allocation percentage to be determined by:

- (1) Ascertaining the percentage which the average net book value of the real and tangible personal property owned or used in the business and situated within the Municipality during the period covered by the return, is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated, during such period.
 - (2) Ascertaining the percentage which the gross receipts of the business from sales made and services performed in the Municipality, during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.
 - (3) Ascertaining the percentage which the total wages, salaries, commissions and other compensation paid, during the period covered by the return, to employees for services performed in the Municipality is of the total wages, salaries, commissions and other compensation paid during such period to all employees within and outside the Municipality.
 - (4) Adding together the percentages determined in accordance with paragraphs (1), (2) and (3) hereof, or such of the percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving the total.
 - (A) A factor is applicable even though it may be allocable entirely in or outside the Municipality.
 - (B) However, in the event a just and equitable result cannot be obtained under the formula provided for herein, the Board of Review, upon application of the taxpayer or the Tax Commissioner, shall, under uniform regulations adopted by the Board, have the authority to substitute other factors or methods calculated to effect a fair and proper allocation.
- (c) Operating Loss Carry-Forward. The portion of a net operating loss sustained in any taxable year, beginning with April 1, 1970, allocable to the Municipality, may be applied against the portion of the profit of succeeding tax years, allocable to the Municipality, until exhausted, but in no event for more than three taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

The portion of a net operating loss sustained shall be allocated to the Municipality in the same manner as provided herein for allocating net profits to the Municipality.

The Tax Commissioner shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

- (d) Consolidated Returns. Filing consolidated returns, providing they clearly show the income and expenses attributable to the Municipality alone, may be permitted, required or denied in accordance with the rules and regulations prescribed by the Tax Commissioner.

In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, the Tax Commissioner shall require such information, in addition to the return hereinafter provided for, as he believes necessary to ascertain whether net profits are properly allocated to the Municipality. If the Tax Commissioner finds net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, he may require the filing of a consolidated return or adjust such transactions so as to produce a fair and proper allocation of net profits to the Municipality.

- (e) Exceptions. The following exceptions apply:

- (1) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R. C. 718.01 to the extent that such net profits are exempted from municipal income taxes under Ohio R. C. 718.01.
- (2) The tax provided for herein shall not be levied upon 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 subject to taxation. The payer of such compensation is not required to withhold Village tax from that compensation.
- (3) 12-Day Occasional Entry Rule. The Village of Greenhills shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve or fewer days in a calendar year unless one of the following apply:
 - (A) The individual who is an employee of another person, the principal place of business of the individual's employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the individual for services performed on those days; and the individual is not liable to that other municipal corporation 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 a promoter, all as may be reasonably defined by the Village of Greenhills.

191.04 EFFECTIVE PERIOD

The tax imposed by this chapter shall be levied, collected and paid with respect to all income and net profits subject to the tax earned after March 31, 1970.

191.05 RETURN AND PAYMENT OF TAX

- (a) Calendar or Fiscal Year Payment. Each person who engages in business or whose salary, wages, commissions or other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return with the Tax Commissioner before May 1 in each year beginning with the year 1971. A taxpayer on a fiscal year accounting basis for Federal income tax purposes shall, beginning with this first fiscal year, any part of which falls within the effective period of this chapter, file his return within four months from the end of such fiscal year or period. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Commissioner shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter is such salary, wages, commissions or other compensation.
- (b) Information Required. The return shall be filed with the Tax Commissioner setting forth:
- (A) The aggregate amounts of salaries, wages, commissions and other compensation earned, 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 the tax;
 - (B) The amount of the tax imposed by this chapter or such earnings and profits; and
 - (C) Such other pertinent statements, information returns or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used in the return for Federal income tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.
 - (D) No return shall be considered to have been submitted unless it clearly sets forth the income and expenses attributable to this Municipality alone.
- (c) Generic Form. The Village of Greenhills shall accept a generic form of any return, report, or document required to be filed if the generic form once completed and filed, contains all of the information required to be submitted with the Village of Greenhills' prescribed returns, reports, or documents, and if the taxpayer or return preparer filing the generic form otherwise complies with the rules or ordinances of the Village of Greenhills governing the filing of returns, reports, or documents.
- (d) Time Extension. The Tax Commissioner may extend the time for filing of the annual return.
- (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Village of Greenhills tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Commissioner.
 - (2) Any taxpayer not required to file a federal income tax return may request an extension for a Village of Greenhills tax return in writing.
 - (3) The request for extension shall be filed not later than the last day for filing the Village of Greenhills tax return as prescribed by ordinance or rule of this municipal corporation.
 - (4) A valid extension request extends the due date for filing a return six (6) months from the original due date of such return.
 - (5) The Village of Greenhills may deny a taxpayer's request for extension if the taxpayer:

- (A) Fails to timely file the request;
 - (B) Fails to file a copy of the federal extension request;
 - (C) Owes Village of Greenhills any delinquent income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of income tax;
 - (D) Has failed to file any required income tax return, report, or other related document for a prior tax period.
- (6) The granting of an extension for filing a Village of Greenhills income tax return does not extend the last date for paying the tax without penalty.
- (e) Payment; Credits; Overpayment. The taxpayer making a return shall at the time of filing thereof pay to the Tax Commissioner the amount of taxes shown due thereon. However, where any portion of the tax so due has been deducted at the source, pursuant to the provisions of Section 191.06; or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 191.07, or where an income tax, creditable against the Greenhills tax pursuant to Section 191.14 has been paid to another municipality, credit for the amount so paid 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.

A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

- (f) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
- (g) Amended Returns. 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 limitations contained in Sections 191.11 and 191.14. Such amended returns shall be on a form acceptable to the Tax Commissioner. Within three months from the final determination of any Federal tax liability affecting the taxpayer's Greenhills tax liability, such taxpayer shall make and file an amended Greenhills return, showing income subject to the Municipality 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.

191.06 COLLECTION AT SOURCE

- (a) 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 at the time of the payment of such salaries, wages, commissions or other compensation, the tax of one percent of the gross salaries, wages, commissions or other compensation, due from the employer to each employee, and shall, on or before the last day of April, except the year 1970, July, October and January of each year, after the effective date of this section (Ordinance 1032, passed March 25, 1970), make a return and pay to the Tax Commissioner the amount of taxes so deducted during the preceding calendar quarter. The return shall be on a form or forms acceptable to the Tax Commissioner and shall be subject to the rules and regulations prescribed by the Tax Commissioner.
- (b) Each employer in collecting the tax shall be deemed to hold the same until payment is made by him to the Municipality as a trustee for the benefit of the Municipality. 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 the 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.
- (c) It shall be the responsibility, jointly and severally, of the president and treasurer of each corporation required to withhold the tax from wages of its employees under this section, to see that all such taxes so withheld are paid to the Municipality in accordance with the provisions of this section. In the event taxes withheld by a corporation from the salaries of its employees are not paid to the Municipality in accordance with the provisions of this section, the president and treasurer of the corporation shall be criminally liable under the provisions of Section 191.15.
 - (d) Before February 1 of each year, each employer shall file a withholding return with the Tax Commissioner, setting forth the names, addresses, and social security numbers of all employees from whose compensation the tax was withheld during the preceding calendar year, and the amount of compensation and the amount of tax withheld from the listed employees and such other information as may be required by the rules and regulations adopted by the Tax Commissioner.
 - (e) Exceptions. The following exceptions apply:
 - (1) No person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.
 - (2) \$150 Deminimus Rule.
 - (A) A nonresident employer, agent of such an employer, or other payer that is not situated in the Village of Greenhills shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the Village of Greenhills on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year.
 - (B) If the total amount of tax required to be deducted and withheld on account of all of the nonresident employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150) for a calendar year, the employer, agent of such an employer, or other payer must deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years in one hundred fifty dollars (\$150) or less, until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150) or less for three (3) consecutive years.

191.07 DECLARATIONS

- (a) Every person who anticipates any taxable income which is not subject to Section 191.06 or who engages in any business, profession, enterprise or activity, 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.
- (b)
 - (1) For the year 1970, such declaration shall be filed before August 1 in the case of calendar year taxpayers or fiscal year taxpayers who fiscal year began prior to April 1, 1970, and four months after the beginning of their fiscal year for other fiscal year taxpayers.

- (2) For the year 1970, taxpayers shall estimate their tax on the basis of three-fourths of their anticipated taxable income for the entire year of 1970.
 - (3) Beginning with the year 1971 and thereafter, such declaration shall be filed before May 1 of each year during the effective period of this chapter, or within four months of the date the taxpayer first becomes subject to the provisions of this section.
 - (4) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the start of each fiscal year or period.
- (c)
- (1) A declaration shall be filed upon a form acceptable to the Tax Commissioner. Credit shall be taken in the declaration for Greenhills tax to be withheld from any portion of such income and for income taxes to be paid to another taxing municipality for which credit allowed against the Greenhills tax under Section 191.14.
 - (2) For the year 1971 and thereafter, a declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least one-fourth of the estimated tax, less credit for taxes withheld or paid to another municipality, 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 tax year.
 - (3) For the year 1970, payment of at least one-third of the estimated tax shall be paid on each date specified in subsection (b)(1) hereof.
 - (4) A declaration may be amended at any time, provided, however, that if an amended declaration is filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (d) An amended declaration must be filed before February 1 of any year, or in the case of a taxpayer on a fiscal year accounting basis, on or before the date fixed by regulation by the Tax Commissioner if it appears that the original declaration made for such year underestimated the taxpayer's income by thirty percent or more. At such time a payment which, together with prior payments is sufficient to pay the taxpayer's entire estimated liability shall be made. Failure to pay, upon the filing of the return before February 1, or the date fixed by regulation whichever is applicable, the difference between seventy percent of the taxpayer's tax liability and the amount of estimated tax he actually paid before February 1 or the date fixed by regulation, whichever is applicable, shall be subject to the interest and penalty provisions of Section 191.10. Failure to file such a declaration equal to or greater than the previous year, or pay at least one-fourth of the amount declared shall subject the taxpayer to the interest and penalties provided for in Section 191.10; such assessments shall begin to run on the day following the due day of such declaration.
- (e) On or before the last day of a fourth month of the calendar or fiscal year following that for which the declaration was filed, 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 191.05.

191.08 TAX COMMISSIONER POWERS AND DUTIES

- (a) This section authorizes the Tax Commissioner, under the advice and consent of the Municipal Manager, to promulgate rules and regulations.
- (b)
 - (1) It is the duty of the Tax Commissioner to collect and receive the tax imposed by this chapter in the manner prescribed therein,

and to keep an accurate record thereof, and to report all moneys so received.

- (2) It is the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- (c) The Tax 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 to enforce rules and regulations authorized or required by this chapter relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
- (d) 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 Municipality from the taxpayer and may send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (e) Subject to the consent of the Board or Review or pursuant to regulations approved by the Board of Review, the Tax Commissioner has the power to compromise any liability imposed by this chapter.
- (f) The Tax Commissioner is hereby authorized, subject to the approval by the Municipal Manager, to employ an Assistant and other such administrative and clerical help as are needed for the Income Tax Bureau, and to establish wages as set by Council.

191.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER

- (a) The Tax Commissioner or any of his authorized agents, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or taxpayer, or any person subject to or whom the Tax Commissioner believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax 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 Tax Commissioner is hereby authorized to order any persons presumed to have knowledge of the facts to appear before him and may examine such persons, under oath, concerning any income which was or should have been reported for taxation or any transaction tending to affect such income and for this purpose may compel the production of books, paper, records and Federal, State, County, School District and Municipal 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 subject to such examination by any employer or person subject, or presumed to be subject to the tax, or by any officers, 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 Section 191.99.

- (d) 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 taxes required to be withheld are paid.
- (e) Any information gained as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, and no disclosure thereof shall be made except to municipal, County, State or Federal taxing agencies, or, except for official purposes, or except in accordance with proper judicial order. In addition to the penalty provided in Section 191.99, any employee of the Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

191.10 INTEREST AND PENALTIES

- (a) All taxes imposed and moneys withheld or required to be held by employers under the provisions of this chapter, remaining unpaid after they become due, shall bear interest at the rate of one-half of one percent per month.
- (b) In addition to interest as provided in subsection (a) hereof, penalties for failure to pay taxes and to withhold and remit taxes pursuant to the provisions of this chapter are hereby imposed as follows:
 - (1) In the case of taxpayers failing to pay the full amount of tax due, a penalty of the higher of:
 - (A) Fifty dollars (\$50.00); or (Ord. 79-55F. Passed 9/4/79.)
 - (B) One percent (1%) per month or fraction thereof, of the amount of the unpaid tax, if the tax is paid within ninety days of the date the tax was due; a penalty of two percent (2%) per month, or fraction thereof, of the unpaid tax, if the tax is paid during the fourth through sixth month, both inclusive, after the tax became due; a penalty of three percent (3%) per month, or fraction thereof, of the unpaid tax, if the tax is paid during the seventh through twelfth month, both inclusive; a penalty of four percent (4%) per month, if the tax is paid during the second year after the tax became due; and a penalty of five percent (5%) per month, or fraction thereof, of the amount of unpaid tax, if the tax is paid later than two years after it became due. When used, the percentages herein specified shall apply from the first month of delinquency.
 - (2) In the case of employers failing to withhold and remit to the Tax Commissioner the taxes to be withheld from employees, a penalty of the higher of:
 - (A) One hundred Dollars (\$100.00); or
 - (B) Two percent (2%) per month or fraction thereof, of the unpaid withholding, if paid during the second or third month, inclusive, after it was due; a penalty of five percent (5%) per month, or fraction thereof, of the unpaid withholding, if paid during the fourth to sixth month, inclusive, after it was due; a penalty of ten percent (10%) per month, or fraction thereof, of the unpaid withholding, if paid within the seventh to twelfth month, inclusive, after it was due; and penalty of twenty percent (20%) per month, or fraction thereof, of the unpaid withholding, if paid later than one year after it was due. When used, the percentages herein specified shall apply from the first month of delinquency.

- (c) 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. Further, 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 an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest, the Board of Review may abate such penalty or interest, or both.

191.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

- (a) All taxes imposed by this chapter shall be collectable, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three years from the time of payment of any tax due hereunder. However, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Tax Commissioner shall be extended one year from the time of the final determination of the Federal tax liability.
- (b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time prescribed under Ohio R. C. 718.06.

191.12 BOARD OF REVIEW

- (a) An Income Tax Board of Review consisting of three members appointed by the Mayor, with the consent of Council, is created as provided for in Section 6.05 of the Greenhills Charter. Board members shall receive such compensation as Council determines.
- (b) A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. All hearings by the Board shall be conducted privately unless the taxpayer requests a public hearing, and the provisions of Section 121.22 of the Ohio Revised Code and Section 191.09 of the Village of Greenhills Income Tax Ordinance hereof 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.
- (c) Whenever the Tax 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 Village of Greenhills, the Tax Commissioner shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- (d) Any person who is aggrieved by a decision by the Tax Commissioner and who has filed with the Village of Greenhills 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 be filed within thirty (30) days after the Tax Commissioner has issued the decision.

- (e) The imposition of penalty and interest as prescribed in the codified ordinance of the Village of Greenhills is not a sole basis for an 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.
- (g) 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 ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

191.13 ALLOCATION OF FUNDS

The funds collected under the provisions of this chapter shall be deposited in the General Fund, and the funds shall be disbursed in the following order:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions hereof.
- (b) Balance of Municipal income taxes to remain in the General Fund to defray operating expenses of the Municipality.

191.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY

- (a) Every individual taxpayer who resides in the Municipality and who receives salaries, wages, commissions or other compensation or net profits from sales made, work done or services performed or rendered outside the Municipality, if it is made to appear that he has paid a municipal income tax on such income, taxable under this chapter, to another municipality, shall be allowed a credit against the tax imposed by this chapter in the amount of the tax so paid by him or in his behalf to such other municipality, not to exceed one-half of one percent (1/2%).
- (b) Notwithstanding the provisions contained in Section 191.11, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may be regulations provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless the taxpayer furnishes to the Tax Commissioner evidence from his employer showing the tax withheld from such taxpayer's wages, salaries or commissions for other municipalities.

191.15 VIOLATIONS

- (a) No person shall:
 - (1) Fail, neglect or refuse to make any return or declaration required by this chapter;
 - (2) Make an incomplete, false or fraudulent return;
 - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
 - (4) Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner;
 - (5) Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his or his employer's books, records, papers or Federal income tax returns upon order or subpoena of the Tax Commissioner;
 - (6) Fail to appear before the Tax Commissioner and to produce his or his employer's books, records, papers or Federal income tax returns upon order to subpoena of the Tax Commissioner;
 - (7) Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits;
 - (8) Fail to comply with the provisions of this chapter or any order to subpoena of the Tax Commissioner;

- (9) Fail, neglect or refuse to make any payment on the estimated tax for any year as required by Section 191.07;
- (10) Fail, as president or treasurer of a corporation, to cause the tax withheld from the wages of the employees of such corporation pursuant to this chapter to be paid to the Municipality in accordance with the provisions of Section 191.06;
- (11) Attempt to do anything to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.
- (b) All criminal prosecutions and civil actions under this section must be commenced within the time prescribed under Ohio R. C. 718.06.
- (c) The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.
- (d) "Person" shall, in addition to the meaning prescribed in Section 191.02(m), 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.

191.16 SEPARABILITY

This chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this chapter, or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein is found to be unconstitutional or 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 section. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalidated sentence or part thereof not been included.

191.17 RENTAL PROPERTY

- (a) Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all property owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant, who occupies an apartment, room or other rental property within the Municipality.
- (b) Within thirty days (30) after a tenant vacates an apartment, room or other rental property located within the Municipality, the property owner or such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and identifying each such vacating tenant along with a forwarding address.
- (c) As used herein, the term "rental property" includes houses, apartments, rooms, stores and any other real property rented, leased or demised to a tenant or lessee.
- (d) Violation of this section shall be an offense punishable by a fine of not more than one hundred dollars (\$100.00).

191.99 PENALTY

Whosoever violates any provision of this chapter shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six months, or both. Each disclosure in violation of Section 191.09 shall constitute a separate offense.