

BY: MR. ROBINSON

Amending and restating Chapter 191 (Income Tax) of the Mansfield Codified Ordinances of 1997, as amended to reflect state mandated changes, therein, to add lottery winnings to the definition of taxable income upon which the City income tax can be levied and other upgrading changes to said Chapter.

WHEREAS, the purpose of this Ordinance is to amend Chapter 191 so as to be in conformity with recent amendments to Ohio Revised Code Chapter 718 (Municipal Income Tax) allowing the City to tax lottery winnings, prizes and awards, and to make other modernizing upgrades to said Chapter.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE
CITY OF MANSFIELD, STATE OF OHIO:**

SECTION 1. That Chapter 191 (Income Tax) of the Mansfield Codified Ordinances of 1997, as amended, be, and the same is hereby, amended and restated to provide as follows:

“191.01 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.

I. “Adjusted federal taxable income” means a C corporation’s federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in trade or business or assets held for the production of income,
- (2) Add an amount equal to five percent (5%) of intangible income deducted under division (a)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
- (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
- (4) A. Except as provided in division (a)(4)B. of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
B. Division (a)(4)A. of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (6) In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to investors, distributions to investors, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (7) If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except;
 - A. Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member, or former member shall not be allowed as a deductible expense; and
 - B. Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to for life insurance for an owner or owner-employee shall not be allowed as a deduction.

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

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

- (b) “Association” means a partnership, limited partnership, S-corporation, or any other form of unincorporated enterprise, owned by two or more persons.
- (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, limited partnership, corporation, association 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, foreign country or dependency.
- (e) “Employee” means an individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.
- (f) “Employer” means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity which employs one or more persons on a salary, wage, third party sick pay, commission or other compensation basis.
- (g) “Intangible Income” means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. “Intangible income” does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (h) “In the City” as used in Section 191.02 shall include all City owned lands not situated within the boundaries of another municipality.
 - (i) “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 required to be reported on schedule C, schedule E, or schedule F.
- (j) “Nonresident” means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the City of Mansfield.
 - (k) “Other compensation” as used in Section 191.02 shall include tips, gratuities and all types of deferred income, that is, insurance paid by the employer over fifty thousand dollars (\$50,000), 401K, PERS, etc.
 - (l) “Other entity” means any person or unincorporated body not previously named or defined and includes, inter alia, fiduciaries located within the City of Mansfield.
 - (m) “Person” means every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to an association, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
 - (n) “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.
 - (o) “Resident” means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the City of Mansfield.
 - (p) “Taxable income” as used in section 191.02 shall include: qualifying wages, salaries, and other compensation paid by an employer or employers before any deduction; and net profits from the operation of a business, profession, or other enterprise or activity; and income derived or received from gaming, wagering, schemes of chance or lotteries, including the Ohio State Lottery, totaling \$600 or more in a taxable year as adjusted in accordance with the provisions of this Chapter.

(q) "Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.

(r) The singular shall include the plural and the masculine shall include the feminine and the neuter.

191.02 LEVY.

To provide funds for the purpose of general municipal operations and other municipal purposes of the City of Mansfield, there is hereby levied a tax upon earnings at the rate of one percent (1%), upon the following:

(a) (1) On all salaries, qualifying wages, third party sick pay, commissions and other compensation earned on and after January 1, 1971, by resident individuals of the City of Mansfield.

I. On income from all lottery, gambling and sports winnings, and games of chance received by resident individuals of the City of Mansfield.

A. If taxpayer is considered a professional gambler under the Internal Revenue Code, then deductions for gambling losses shall be permitted according to the Internal Revenue Code for a professional gambler.

a) If taxpayer is not considered a professional gambler under the Internal Revenue Code, a deduction equal to the amount of up to \$2,500 of income combined from lottery gambling and sports winnings, and games of chance, or a deduction of \$2,500 whichever is less, shall be allowed, provided that in case shall the deduction exceed the amount of combined income from lottery, gambling and sports winnings, and games of chance. If any of the said income is paid out over a period of more than one year, the deduction shall apply only to the first year.

(b) On all salaries, qualifying wages, third party sick pay, commissions and other compensation earned on and after January 1, 1971, by nonresident individuals of the City of Mansfield, for work done or services performed or rendered in the City of Mansfield .

(c) On the net profits attributed to City of Mansfield, earned on and after January 1, 1971, of all resident unincorporated businesses, professions and other activities derived from work done or services rendered or performed and business or other activities conducted in the City of Mansfield.

(d) On the portion of the distributive share of the net profit earned on and after January 1, 1971, of a resident individual, partner or owner of a resident unincorporated business entity attributable to the City of Mansfield and not levied against such unincorporated business entity.

(e) On the net profits attributable to the City of Mansfield earned on and after January 1, 1971, of all nonresident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City of Mansfield.

(f) On that portion of the distributive share of the net profits earned on and after January 1, 1971, of a resident individual, partner or owner of a non-resident unincorporated business entity not attributable to the City of Mansfield and not levied against such unincorporated business entity.

(g) On the net profits earned on and after January 1, 1971, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City of Mansfield.

(h) Business Apportionment Percentage Formula. (Ohio

R.C. 718.02)

(1) In the taxation of income which is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of a municipal corporation shall separately disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the municipal corporation, then only such portion shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation. In the absence of such records, net profits from a business or profession conducted both within and without the

boundaries of a municipal corporation shall be considered as having a taxable status in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of:

1. The average original cost of property 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 net book value of all the real and tangible personal property owned or used by the taxpayer in 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, third party sick pay, commissions 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, third party sick pay and other compensation paid during the same period to persons employed in the profession, wherever their services are performed.

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. In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such results.

(2) As used in subsection (h)(1) hereof, "sales made in a municipal corporation" means:

A. All sales of tangible personal property which is delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation.

B. All sales of tangible personal property which is 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.

C. All sales of tangible personal property which is 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.

(i) In the computation of any tax due under this chapter, a business loss of a previous tax year shall not be allowed or carried forward to reduce the tax due in any subsequent tax year.

(j) In the event a just and equitable result cannot be obtained under the formula provided for herein, the Finance Director, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

191.021 LEVY OF ADDITIONAL TAX.

In addition to the income tax levied pursuant to Section 191.02, there is hereby levied, to provide funds for the purpose of expenses and salaries in the Police and Fire Departments, a tax upon earnings at the additional rate of one-half of one percent ($\frac{1}{2}$ %) upon those items enumerated in Section 191.02.

191.03 EFFECTIVE DATE.

(a) The tax levied by Section 191.02 shall be levied, collected and paid with respect to salaries, wages, third party sick pay, commissions and other compensation earned on and after January 1, 1971; and with respect to the net profit

of business, professions and other activities earned on and after January 1, 1971. Provided however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 1971, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis. With respect to the income derived or received from all lotteries, gambling and sport winnings and games of chance, such tax, also levied by Section 191.02 shall be imposed, levied, collected and paid, on or after January 1, 2005.

(b) The tax levied by Section 191.021 shall be levied, collected and paid with respect to salaries, wages, third party sick pay, commissions and other compensation earned on and after April 1, 1988; and with respect to the net profit of business, professions and other activities earned on and after April 1, 1988. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after April 1, 1988, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis. With respect to the income derived or received from all lotteries, gambling and sport winnings and games of chance, such tax, also levied by Section 191.02 shall be imposed, levied, collected and paid, on or after January 1, 2005.

191.04 RETURN AND PAYMENT OF TAX.

(a) Each resident of the City, being eighteen years of age or older, shall, on or before April 15, 1989, and on or before April 15 of each year thereafter, make and file an annual return with the Finance Director on a form obtainable from the Director, setting forth the aggregate amount of salary, wages, third party sick pay or other compensation and net profits earned by him during the preceding year or period, whether a tax be due thereon or not, together with W-2, federal schedules and other pertinent information as the Director may require. Provided, however, that when the annual return is made for a fiscal year or other period different from the calendar year, the return shall be made within 105 days from the end of such fiscal year or other period. If such resident is retired and has no earned income, he shall register with the Director as a retired resident; therefore, annual returns shall not be expected. Thereafter, a resident registered as retired shall update his status if he receives taxable income per this chapter.

(b) Each nonresident of the City earning wages, salary, commissions, third party sick pay or other taxable income under Section 191.02 shall file a tax return according to the provisions of subsection (a) hereof disclosing only those moneys earned within the City. However, the return of an employer showing the amount of tax deducted by such employer or employers from the salaries, wages, third party sick pay, commissions or compensation of any employee, and paid by him or them to the Director shall be accepted as the return required of any such employee whose sole income subject to the City income tax herein, is such salaries, wages, third party sick pay, commissions or other compensation.

(c) The returns required by subsections (a) and (b) hereof shall also show the amount of the tax imposed on such earnings and profits. The taxpayer making the return shall, at the time of the filing thereof, pay to the Director the amount of taxes shown as due thereon. Provided, however, that where any portion of such tax is by such taxpayer pursuant to the provisions of Section 191.05 and/or Section 191.06, 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 annual return.

(d) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a city income tax return by filing a copy of the taxpayer's federal extension request with the City Income 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 city 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.

(e) A tax in the amount of three dollars (\$3.00) or less shall not be collected or refunded, provided that this subsection is not applicable to taxes collected at the source under the provisions of Section 191.05, and provided further that nothing in the subsection dispenses with any requirement of this chapter relating to the filing of declarations, returns and questionnaires.

(f) Commencing with taxable years beginning subsequent to December 31, 1994 the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of another for purposes of arriving at overall net profits.

(g) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.

(h) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.

Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayer's City return, as permitted by Section 191.07 such taxpayer shall make and file an amended City return and pay any additional tax shown thereon.

191.05 COLLECTION AT SOURCE.

Each employer who employs within the City one or more persons on a salary, wage, commission, third party sick pay or other compensation basis, excluding exempted incomes set forth in Section 191.14, shall deduct at the time of the payment of such salary, wage, commission, third party sick pay or other compensation, the tax on the qualifying wages due by such employer to each such employee and shall make a return and pay to the Finance Director the amount of taxes so deducted as follows:

(a) In monthly payments to be made not later than ten days following the last day of each month during which tax has been withheld or required to be withheld, or

(b) So long as the taxes withheld by an employer for the city during the measurement period are less than \$100 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 Finance Director. The Finance Director may revoke the approval of quarterly filing and payments whenever the Finance Director 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 city 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.

(c) Upon the determination and finding by the Director that monthly or quarterly payments would result in a delay that might jeopardize collection of tax withheld, he may order that payment of the tax be made weekly, and such payment shall be made within seven days following the close of the period for which the jeopardy payment is made. Such an order shall be delivered to the taxpayer personally or by certified mail and remains in effect until the Director notifies the employer to the contrary.

(d) 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 city 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 city tax withheld. If the total tax withheld from any employee's wages, includes tax withheld and remitted to another municipality, the amount of that withheld tax shall be separately shown on the return of information to the City 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.

(e) 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 city when the services were performed in the city. 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 the payment made. Federal form(s) 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.

(f) Employers having 100 or more employee records, as mentioned in this section are required to submit the required information on magnetic media. Such filing must be done on a format provided by the city. A penalty of \$50 per day, after due date, will be assessed for noncompliance.

Such return shall be on a form prescribed and furnished by the Director. Such employer, in collecting the tax, shall be deemed to hold the same as trustee for the benefit of the City until payment is made by such employer to the City and any such tax collected by the employer from his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

The officer or employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this chapter. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

191.06 DECLARATION.

(a) Requirement for Filing. Every person who anticipates any taxable income which is not subject to withholding or who engages in any business, profession, enterprise or activity subject to the tax imposed by section 191.02, 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 this city, 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, 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 having a fiscal year or period differing from the calendar year 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 Finance Director or an acceptable generic form, and credit shall be taken for the city tax to be withheld from any portion of such income. 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 city 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 city 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 day of the fourth month of the calendar or fiscal year, an annual return or extension shall be filed and any balance which may be due the city shall be paid therewith.

191.07 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

Every individual taxpayer who resides in the City of Mansfield, but who receives net profits, salaries, wages, third party sick pay, commissions or other personal service compensation. for work done, or services rendered outside of said City, if it be made to appear that he has paid a municipal income tax on such net profits, salary, wages, third party sick pay, commissions or other compensation to another municipality, shall be allowed a credit on the tax imposed by this chapter of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed one percent (1%) on such net profit, salary, wages, third party sick pay, commission or compensation earned in such other municipality or municipalities where such tax is paid. Provided: The credits established by this section shall be allowable to a taxpayer only to the same extent that such other municipality or municipalities grant reciprocal credits to their residents who receive net profits, salaries, wages, third party sick pay, commissions or other personal service compensation, for work done or services performed or rendered outside of such other municipality or municipalities.

191.071 WORKING AGGRESSIVELY GENERATING EMPLOYMENT (W.A.G.E.) TAX CREDIT.

(a) From and after January 1, 1988, each taxpayer that has earnings or profits which are subject to the tax imposed by Section 191.02 and employs within the City one or more persons on a salary, wage, commission or other compensation basis, excluding exempt incomes set forth in Section 191.14, shall be eligible for a credit against that taxpayer's City income tax liability as set forth herein.

(b) Each eligible taxpayer shall be entitled to a credit equal to fifty percent (50%) of the personal City income tax liability attributable to new employment or increased employee payroll hours generated by the taxpayer in years following the taxpayer's base year.

(c) The base year for any eligible taxpayer in existence as of December 31, 1987, operating on a calendar year basis shall be calendar year 1987 and every third calendar year thereafter. Eligible taxpayers in existence as of December 31, 1987, operating on a fiscal year basis shall have as a base year their last fiscal year ending prior to December 31, 1987, and every third fiscal year thereafter. Eligible taxpayers not in existence as of December 31, 1987, shall have as a base year their first fiscal or calendar year of operation as the case may be, and every third fiscal or calendar year thereafter.

The base year for any eligible taxpayer annexed into the corporate limits of the City of Mansfield after January 1, 1988, shall be the fiscal or calendar year in which annexation procedures are completed and every third fiscal or calendar year thereafter, as the case may be and any such taxpayer shall not be considered a "new eligible taxpayer" as that term is used in subsection (d) hereof.

(d) To be eligible to receive the employment tax credit each taxpayer shall, at the time of filing its base year City income tax return as required by Section 191.04, provide the Finance Director with the total number of employee payroll hours divided by 2,080 which shall establish for the purpose of administering the credit, the total number of employees employed by the taxpayer during its base year. Notwithstanding the foregoing, the total number of employees for new eligible taxpayers, i.e. those eligible taxpayers not in existence as of December 31, 1987, shall be established, for the purpose of administering the credit, at zero employees for the first base year of operation only and any such taxpayer shall be entitled to the credit for that year. Thereafter, the employment level of the first base year shall be recalculated without regard to the rule in the immediately preceding sentence.

(e) For each tax year following a taxpayer's base year the taxpayer shall calculate total number of employees in the same manner as in subsection (d) hereof. In any tax year in which the taxpayer's total number of employees exceeds the base year level, the taxpayer shall be entitled to an income tax credit for such increased employment levels as set forth in subsection (b) hereof. In any tax year in which a taxpayer claims an employment tax credit, the taxpayer shall furnish, to the City Income Tax Division on forms provided by the Finance Director, calculations substantiating entitlement to the credit.

191.08 ADMINISTRATION; FINANCE DIRECTOR'S DUTIES.

The taxes imposed and levied pursuant to the provisions of this chapter, shall be administered by such deputies and clerks within the Finance Director's Department as may be from time to time determined by Council of the City of Mansfield.

The Finance Director shall prescribe the form of accounts and reports to be rendered to his office and the form and method of keeping accounts within the income tax office. The Finance Director shall be charged with the internal audit of all accounts and returns including the correction of the returns.

The Finance Director shall make rules, regulations (other than those adopted by Council), decisions and amendments, or changes thereto, necessary regarding the operation of the tax. Any person dissatisfied with any ruling or decision made by the Finance Director may appeal therefrom to the Board of Tax Appeals which shall be comprised of the Finance Director, the City Law Director and one member of Council designated by Council. Such appeal shall be within thirty days from the date of such ruling or decision. Appeals may be taken from the decisions of the Board of Tax Appeals to a court of competent jurisdiction within thirty days from the announcement of the Board's ruling or decision.

The Finance Director shall have the authority to deem accounts as uncollectible and write them off once all efforts to require the filing or collection of the tax have been exhausted.

The Finance Director shall demand, collect, and receive the tax imposed by this chapter. The Finance Director shall keep an accurate record showing the amount received from each taxpayer and the date of said receipt. The Finance Director shall make a written report to Council each quarter of all monies collected hereunder during the preceding quarter.

191.09 INQUISITORIAL POWERS.

The Finance Director, or any authorized employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Finance Director or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

The Finance Director, or his duly authorized agent or employee, is hereby authorized to examine any person, employer or employee, under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income.

The refusal of such examination by any employer, employee or person subject or presumed to be subject to the tax shall be deemed a violation of this chapter.

Tax returns and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City of Mansfield for official tax purposes.

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 tax purposes or except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof be deemed guilty of a misdemeanor of the third degree. In addition to the above penalties, any employee of the City of Mansfield who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the City.

191.10 INTEREST AND PENALTIES.

(a) All taxes imposed by this chapter, including taxes withheld from wages by an employer, remaining unpaid after they have become due, shall bear interest in addition to the amount of the unpaid tax, at the rate of one percent (1%) per month.

In addition to interest, penalties are hereby imposed as follows:

(1) For failure to pay taxes due by the due date, other than taxes withheld, one percent (1%) of the unpaid balance per month or fraction of a month.

(2) For failure to file a return by the due date or by the date resulting from extension, twenty-five dollars (\$25.00).

(3) For failure to remit taxes withheld or required to be withheld from employees; three percent (3%) of the unpaid balance per month or fraction of a month.

(4) For late payment of wage withholding by an employer, one hundred dollars (\$100.00).

(5) The City Finance Director may waive any penalties and/or interest as he in his discretion deem proper.

(b) Each year, during the month of January, the Director may choose to publish in a newspaper of general circulation within the City, a list of persons who are delinquent in the payment of their City Income Tax or who have otherwise failed to comply with the income tax regulations; provided that such persons have been notified by certified mail of the date of publication within thirty days prior to publication.

191.11 COLLECTION OF UNPAID TAXES.

(a) All taxes imposed and administered by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

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

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

191.12 ALLOCATIONS OF FUNDS.

The one percent (1%) basic income tax, income tax penalties and interest shall be disbursed based on the annual appropriation as passed by Council. Additional levies will be disbursed according to the levy as passed by the voters.

191.13 SEVERABILITY.

This chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. 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 clause, sentence, section or part of this chapter shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or other parts of the chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section or part thereof not been included herein.

191.14 EXEMPTIONS.

The provisions of this chapter shall not be construed as levying a tax upon the following:

(a) Military pay or allowances of members of the Active

Armed Forces of the United States.

(b) Poor relief, pensions, social security, unemployment compensation (but not including supplemental unemployment compensation) and disability benefits received from private industry or local, state or federal governments, or from charitable, religious or educational organizations.

(c) Alimony received.

(d) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.

(e) Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious and educational organizations and associations.

(f) Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.

(g) Gains from involuntary conversions, gains or losses from the sale, exchange or other disposition of depreciable business property, and income from a decedent's estate during the period of administration (except such income from the operation of a business).

(h) Earnings of mentally handicapped and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops shall be exempt from the levy of the tax provided herein.

(i) Earnings and income of all persons under eighteen years of age, whether residents or nonresidents.

(j) Rental income received by a taxpayer sixty-five years of age or older if such income comprises the taxpayer's total income subject to taxation and such income is less than eight thousand eight hundred fifty dollars (\$8,850) annually. To receive this exemption, a taxpayer must file an annual return with supporting documentation (i.e. federal Schedule E) and must have been at least sixty-five during a portion of the tax year for which the return is being filed.

191.15 REFUNDS.

Subject to the provisions of Section 191.04 (e), should it appear that any taxpayer has paid more than the amount of tax to which the City of Mansfield is entitled under the provisions of the chapter, a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, provided further, that a business loss or activity may not be credited against tax credits accrued through withholding by an employer.

All applications for refund shall be made, within three years after the tax was due or the return was filed, whichever is later.

191.16 DURATION.

(a) This chapter shall continue in effect with respect to the levy of taxes under Section 191.02 of this chapter until terminated or repealed according to law.

(b) This chapter shall continue in effect with respect to the levy of taxes under Section 191.021 of this chapter until December 31, 2007. Taxpayers whose fiscal year ends on a date other than December 31 shall file their returns when required by this chapter and shall compute the levy of taxes under Section 191.021 of this

chapter for any portion of the period commencing April 1, 1988 and ending December 31, 2003, which was not included in a fiscal year for which they were required to file a previous annual return.

(c) This chapter with respect to the collection of taxes levied pursuant to Sections 191.02 or 191.021 of this chapter and actions or proceedings for the enforcement and collection of any such taxes levied pursuant to Sections 191.02 or 191.021, shall continue in full force and effect until all of the taxes levied by Sections 191.02 or 191.021 are fully paid and any and all civil actions, prosecutions and suits for the enforcement and collection of the taxes levied under Sections 191.02 or 191.021 or for the punishment of violations of this chapter shall have been fully and finally terminated.