CITY OF BEVERCREEK
RESOLUTION NO. 20-17

SPONSORED BY COUNCIL MEMBER CURRAN ON THE 27TH DAY OF JULY, 2020.

A RESOLUTION TO PROCEED WITH PLACING A ONE PERCENT (1%) MUNICIPAL INCOME TAX ON THE NOVEMBER 3, 2020 BALLOT AND TO CERTIFY THE SAME TO THE GREENE COUNTY BOARD OF ELECTIONS

WHEREAS, Beavercreek City Council has determined that it is necessary to increase annual revenues in the City for the purpose of providing additional funds for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek; and

WHEREAS, to provide sufficient funding for the purposes described above, Council for the City of Beavercreek has determined that it is necessary to impose a one percent (1%) municipal income tax in the City of Beavercreek; and

WHEREAS, Section 10.05 of the Charter of the City of Beavercreek, Ohio, provides that City Council must have the approval of a majority of the City's electors voting on the imposition of an income tax levy before an income tax can be imposed in the City of Beavercreek; and

WHEREAS, City Council verily believes that the imposition of a one percent (1%) income tax will help protect and promote the public health, safety, and welfare of citizens in the Beavercreek community by providing sufficient funds for necessary municipal operations and services; and

WHEREAS, the imposition of a one percent (1%) income tax in the City of Beavercreek would permit the City to allow the voted 3.4 mill street levy to expire, thus reducing the City's reliance on property tax levies; and

WHEREAS, City Council has adopted an Ordinance authorizing the one percent (1%) income tax described herein; and

WHEREAS, after complying with all of the statutorily required notice and hearing requirements, the City of Beavercreek has determined it necessary to place the City of Beavercreek's Income Tax Ordinance on the November 3, 2020 General Election Ballot; and

WHEREAS, pursuant to R.C. 718.04(C)(2), City Council intends to hereby direct the Greene County Board of Elections to conduct the election and place the City of Beavercreek's Income Tax Ordinance on the ballot for the November 3, 2020 General Election.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERCREEK, STATE OF OHIO:

SECTION I: Council for the City of Beavercreek hereby authorizes the submission to the electors of the City of Beavercreek, Ohio, at the general election to be held on November 3, 2020, during the times and places established by state law or the Board of Elections of Greene County, Ohio, the question of approving the passage of an Ordinance, a copy of which is attached hereto as Exhibit A, to adopt Chapter 39 of the City of Beavercreek Codified Ordinances and thereby impose an income tax at the rate one percent (1%) for the period beginning January 1, 2022, for the purpose of providing revenue for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek. The Greene County Board of Elections is hereby directed, in accordance with R.C. 718.04(C)(2), to conduct the election.

SECTION II: The form of the ballot to be used at said election shall be substantially as follows:

PROPOSED INCOME TAX AT THE RATE OF ONE PERCENT

CITY OF BEAVERCREEK, OHIO

A majority affirmative vote is necessary for passage

Shall the Ordinance providing for the imposition of a one percent (1%) income tax in the City of Beavercreek, Ohio, beginning January 1, 2022, to be levied on income as defined by Ordinance of the City of Beavercreek, Ohio, for the purpose of providing revenue for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek, Ohio, the passage of which would permit the City to allow the 3.4 mill street levy currently in effect to expire on December 31, 2021 and not be renewed, be passed?

	FOR THE INCOME TAX
	AGAINST THE INCOME TAX

SECTION III: The Clerk of Council is hereby authorized and directed to forward a certified copy of this Resolution, together with a certified copy of the Ordinance attached hereto, to the Board of Elections of Greene County, Ohio, as soon as possible but not later than 4:00 p.m. on August 5, 2020.

SECTION IV: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that any and all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including, but not limited to Section 121.22 of the Ohio Revised Code.

SECTION V: This Resolution shall take effect and be in full force from and after its passage.

PASSED this 27th day of July, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

PREPARED BY: CITY ATTORNEY

SUMMARY

THIS RESOLUTION BY BEAVERCREEK CITY COUNCIL IS TO PLACE A ONE PERCENT (1%) MUNICIPAL INCOME TAX ON THE NOVEMBER 3, 2020 GENERAL ELECTION BALLOT AND TO CERTIFY THE SAME TO THE GREENE COUNTY BOARD OF ELECTIONS

CITY OF BEAVERCREEK, OHIO

ORDINANCE NO. 20-09

SPONSORED BY COUNCIL MEMBER CURRAN ON THE 26TH DAY OF MAY, 2020.

AN ORDINANCE BY BEAVERCREEK CITY COUNCIL ENACTING A NEW CHAPTER 39 "INCOME TAX" TO THE CODIFIED ORDINANCES OF THE CITY OF BEAVERCREEK

WHEREAS, Article XVIII, Section 3, of the Constitution of the State of Ohio, grants municipalities the authority to exercise all powers of local self-government and to enact and enforce local police, sanitary, and other regulations that are not in conflict with the general laws; and

WHEREAS, pursuant to the home rule authority granted by Article XVIII, Section 3 of the Ohio Constitution, the citizens of the City of Beavercreek, Ohio, have adopted a Charter and Codified Ordinances to exercise the powers of local self-government and to enforce local police power regulations; and

WHEREAS, Section 10.05 of the Charter of the City of Beavercreek, Ohio, provides that City Council shall have no power to adopt and levy a City income tax without a majority vote of the City's electors voting on such levy; and

WHEREAS, in accordance with Ohio Revised Code Chapter 718, the City of Beavercreek wishes to adopt an income tax in order to provide revenue for purposes of general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek; and

WHEREAS, the imposition of an income tax is in the best interest of the citizens of the City of Beavercreek as the revenue will help provide for proper street maintenance and repairs in the City; it will provide additional revenue for all other authorized purposes specified in the Ohio Revised Code; it will provide funding that will help protect and promote the public health, safety and welfare of citizens in the Beavercreek community; and it will eliminate or reduce the need for future City property tax levies for police, parks and streets; and

WHEREAS, the approval of a one percent income tax by a majority of the electors voting on the levy would permit the City to allow the voted 3.4 mill street levy to expire; and

WHEREAS, the one percent municipal income tax described herein will be submitted to the electors of the City of Beavercreek, Ohio for approval or rejection in accordance with Section 10.05 of the Charter of the City of Beavercreek, Ohio.

NOW, THEREFORE, THE CITY OF BEAVERCREEK HEREBY ORDAINS:

SECTION I.

City Council hereby finds that imposition of a one percent income tax, which will be effective January 1, 2022, will reduce the City's reliance on property tax levies and will allow for the existing voted 3.4 mill street levy to expire on December 31, 2021.

SECTION II.

City Council hereby finds that the imposition of an income tax as prescribed by Ohio Revised Code Chapter 718 is in the best interest of the citizens of the City of Beavercreek as the revenue generated by this tax will help provide funds for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek.

SECTION III.

Chapter 39 ("Income Tax") of the Codified Ordinances of the City of Beavercreek, Ohio, a copy of which is attached hereto and incorporated herein as Exhibit A, is hereby enacted as prescribed by Ohio Revised Code Chapter 718, to impose a one percent income tax in the City of Beavercreek, Ohio, and to establish a one hundred percent credit (up to Beavercreek's income tax rate) for income taxes paid by Beavercreek residents to other municipalities.

SECTION IV.

City Council hereby directs that the question of whether an income tax of one percent shall be imposed in the City of Beavercreek shall be submitted to the City's electors for approval or rejection and placed on the election ballot in accordance with Ohio law.

SECTION V.

It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that any and all deliberations of this Council that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including, but not limited to, Section 121.22 of the Ohio Revised Code.

SECTION VI.

The Clerk of Council is hereby directed to take any administerial and/or clerical action that may be required to ensure that a certified copy of this Ordinance is properly recorded with the State of Ohio.

The Clerk of Council is further directed to file a certified copy of this Ordinance with Exhibit A attached, together with a Resolution specifying the date of the election to be held, directing the Board of Elections to conduct the election.

SECTION VII.

This Ordinance shall take effect at the earliest time permitted by law.

PASSED this 22nd day of June, 2020.

Bob Stone, Mayor

ATTEST:

Dianne Miscisin, Clerk of Council

SUMMARY

THIS ORDINANCE IMPOSES A ONE PERCENT MUNICIPAL INCOME TAX IN ACCORDANCE WITH OHIO REVISED CODE CHAPTER 718 AND AMENDS THE CODIFIED ORDINANCES OF THE CITY OF BEAVERCREEK, OHIO BY ADDING NEW CHAPTER 39 "INCOME TAX"

CHAPTER 39

City of Beavercreek Income Tax

Effective January 1, 2022
For taxable years beginning with taxable year 2022

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39.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.

39.011 AUTHORITY TO LEVY TAX .

(A) The tax on income and the withholding tax established by this chapter are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this chapter are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of R.C. Chapter 718. This chapter is deemed to incorporate the provisions of R.C. Chapter 718.

(B) The tax is an annual tax levied on the income of every person, as defined in this chapter, residing in or earning or receiving income in the City of Beavercreek, and shall be measured by municipal taxable income, as defined in this chapter. The City of Beavercreek shall tax income at a uniform rate.

39.012 PURPOSES OF TAX; RATE.

(A) The purpose of the tax is to provide funds for purposes of general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure, and capital improvements in the City of Beavercreek.

(B) Subject to the provisions of division (A) of this section, an annual tax shall be levied at the rate of one percent per annum.

(C) The income tax will diversify the City of Beavercreek's revenue stream and reduce the City of Beavercreek's dependence on property tax levies. Upon approval of the one percent per annum income tax by a majority of the electors voting on the tax, the voted 3.4 mill street levy currently in effect, which levy is set to expire on December 31, 2021, shall not be renewed.

39.013 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited into the General Fund and shall be appropriated and disbursed through annual appropriations, for the purposes defined in section 39.012 of this chapter, in accordance with Section 10.10 ("Annual Appropriation Ordinance") of the Charter of the City of Beavercreek, Ohio, as well as supplemental appropriations ordinances adopted by City Council.

Upon approval of this one percent income tax by a majority of the voting elecctors, the voted 3.4 mill street levy will expire on December 31, 2021 and not be renewed. The revenue currently generated by this levy will be appropriated annually to replace the funds on the expiring levy.

The City shall continue and expand the open budgetary process allowing public input through various steps of the annual budget and appropriations process. This includes the ability for residents to provide input during the tax budget, budget work sessions, and public hearing for the annual appropriations ordinance.

39.02 EFFECTIVE DATE.

The effective date of the provisions of this chapter shall be January 1, 2022 and shall apply to municipal taxable years beginning on or after January 1, 2022.

39.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender neutral.
As used in this chapter:

(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(E) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five percent of intangible income deducted under division (1)(A) 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.

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

(D) (i) Except as provided in division (1)(D)(ii) 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;

(ii) Division (1)(D)(i) 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.

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

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

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under R.C. 4313.02.

(H) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.063 of this chapter.

(J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.063 of this chapter.

If the taxpayer is not a C corporation, is not a publicly traded partnership that has made the election described in division (23)(E) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States Department of Treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) 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.

(2) (A) **"ASSESSMENT"** means any of the following:

(i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

(ii) A full or partial denial of a refund request issued under section 39.096 (B)(2) of this chapter;

(iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under section 39.062(B)(2) of this chapter; or

(iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under section 39.062(B)(3) of this chapter.

(v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to section 39.18 of this chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under section 39.096 (B)(3) of this chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

(3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) **"BOARD OF REVIEW"** has same meaning as **"LOCAL BOARD OF TAX REVIEW"**.

(5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.

(6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in R.C. 3772.01.

(7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE"** and similar terms include any delivery service authorized pursuant to R.C. 5703.056.

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(9) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(11) **"EXEMPT INCOME"** means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.

(B) Intangible income, as described paragraph (15) of this section.

(C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(E) Compensation paid under R.C. 3501.28 or R.C. 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year shall be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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

(G) Alimony and child support received.

(H) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages.

(I) Income of a public utility when that public utility is subject to the tax levied under R.C. 5727.24 or R.C. 5727.30. Division (11)(I) of this section does not apply for purposes of R.C. Chapter 5745.

(J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.

(K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code.

(L) Employee compensation that is not qualifying wages as defined in division (33) of this section.

(M) Compensation paid to a person employed within the boundaries of a United States Air Force base under the jurisdiction of the United States Air Force that is used for the housing of members of the United States Air Force and is a center for Air Force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.

(N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.

(O) (i) Except as provided in divisions (11)(O)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of section 39.052 of this chapter to the extent the qualifying wages are not subject to withholding for the municipality under either of those divisions.

(ii) The exemption provided in division (11)(O)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (11)(O)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of section 39.052 of this chapter.

(iv) The exemption provided in division (11)(O)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (B)(1) of section 39.052 of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of

work is situated, or, for qualifying wages described in division (E) of section 39.052 of this chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

(b) The employee receives a refund of the tax described in division (11)(O)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(P) (i) Except as provided in division (11)(P)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the municipality on not more than twenty days in a taxable year.

(ii) The exemption provided in division (11)(P)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the municipality.

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(P)(ii)(b) of this section, **"PROFESSIONAL ATHLETE," "PROFESSIONAL ENTERTAINER,"** and **"PUBLIC FIGURE"** have the same meanings as in section 39.052 of this chapter.

(iii) Compensation to which division (11)(P) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

(iv) For purposes of division (11)(P) of this section, **"BASE OF OPERATION"** means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

(Q) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to R.C. 709.023 on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

(R) In the case of a tax administered, collected, and enforced by a municipal corporation pursuant to an agreement with the board of directors of a joint economic development district under R.C. 715.72, the net profits of a business, and the income of the employees of that business, exempted from tax under division (Q) of that section.

(S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

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

(13) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) **"INCOME"** means the following:

(A) (i) For residents, all income, salaries, qualifying wages, commissions, tips, bonuses, fees, gifts in lieu of pay, gratuities, strike pay, vehicle allowance, employer paid premiums for group life insurance to the extent taxable for federal income tax purposes, incentive payments, no matter how described, including, but not limited to, payments to induce early retirement and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident.

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;

(b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior

taxable year and applied to reduce the entity's net profit for the current taxable year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N).

(iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

(B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For taxpayers that are not individuals, net profit of the taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in section 39.081 of this chapter.

(15) **"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 R.C. Chapter 5701, 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, gambling winnings, or other similar games of chance.

(16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under R.C. Chapter 1705 or under the laws of another state.

(18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under section 39.18 of this chapter.

(19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under R.C. 715.691, 715.70, 715.71, or 715.74.

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

(i) For a person other than an individual, income apportioned or sitused to the municipality under section 39.062 of this chapter

(ii) For an individual who is a resident of a municipal corporation other than a qualified municipal corporation, Ohio adjusted income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section.

(iii) For an individual who is a nonresident of the municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the municipality under section 39.062 of this chapter, then reduced as provided in division (20)(B) of this section.

(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** as used herein means the City of Beavercreek, unless the context of the surrounding text clearly indicates otherwise.

(22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on Schedule C, Schedule E, or Schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (23)(C) of this section.

(B) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2022, subject to the limitations of division (23)(C) of this section.

(C) (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

(ii) No person shall use the deduction allowed by division (23)(C) of this section to offset qualifying wages.

(iii)(a) For taxable years beginning in 2022, a person may not deduct more than fifty percent of the amount of the deduction otherwise allowed by division (23)(C) of this section.

(b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (23)(C) of this section without regard to the limitation of division (23)(C)(iii)(a) of this section.

(vi) Nothing in division (23)(C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2022, any amount of net operating loss that was not fully utilized by operation of division (23)(C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (23)(C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2022, the limitation described in division (23)(C)(iii)(a) of this section shall apply to the amount carried forward.

(D) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity but shall instead be included in the net profit of the owner of the disregarded entity.

(E) (i) For purposes of this chapter, **"PUBLICLY TRADED PARTNERSHIP"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

(ii) For the purposes of this chapter, and not withstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(E) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

(iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (E)(iv) of this section.

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (E)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (E) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) **"NONRESIDENT"** means an individual that is not a resident of the municipality.

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under R.C. 125.30 , that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

(28) **"PENSION"** means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course if its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery

(32) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by R.C. 5747.01, as the income subject to tax for the purposes of imposing a municipal income tax.

(33) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

(A) Deduct the following amounts:

(i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

(ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.

(iii) Any amount included in wages that is exempt income.

(B) Add the following amounts:

(i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (33)(B)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (33)(B)(iii) of this section applies only to employee contributions and employee deferrals.

(iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

(v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.

(vi) Any amount not included in wages if all of the following apply:

(a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;

(b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding taxable year will the amount constitute wages; and

(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (33)(B) of this section or R.C. 718.03, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

(34) **"RELATED ENTITY"** means any of the following:

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;

(B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation

under division (34)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (34)(A) to (C) of this section have been met.

(35) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

(36) **"RESIDENT"** means an individual who is domiciled in the municipality as determined under section 39.042 of this chapter.

(37) **"RETIREMENT BENEFIT PLAN"** is an arrangement under which an entity provides benefits to individuals either on or after their termination of service because of retirement or disability regardless of whether the arrangement satisfies the requirements of Internal Revenue Code Section 401(a). Retirement Benefit Plan does not include wage continuation payments, severance payments or payments for accrued personal or vacation time or elective employee contributions or deferrals.

(38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.

(39) **"SCHEDULE C"** means Internal Revenue Service Schedule C (Form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means Internal Revenue Service Schedule E (Form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F"** means Internal Revenue Service Schedule F (Form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue;

patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) (a) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:

(A) A municipal corporation acting as the agent of another municipal corporation;

(B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

(C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

Tax Administrator does not include the State Tax Commissioner.

(b) **"TAX COMMISSIONER"** means the Tax Commissioner appointed under R.C. 121.03.

(45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .

(46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(47) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or a disregarded entity.

(48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in R.C. 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 and any corresponding ordinances of the municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with R.C. Chapter 718 and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in R.C. 3770.21.

(50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under R.C. Chapter 3770 to conduct video lottery terminals on behalf of the state pursuant to R.C. 3770.21.

39.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS

39.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

(A) "Municipal Taxable Income" for a resident of the municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of section 39.03 of this chapter equals "Municipal Taxable Income".

(a) "Income" is defined in section 39.03 (14) of this chapter.

(i) "Qualifying Wages" is defined in section 39.03(33).

(ii) "Net profit" is included in "income" and is defined in section 39.03 (23) of this chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of section 39.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 39.062(E).

(iii) Section 39.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in section 39.03(27).

(b) "Exempt Income" is defined in section 39.03 (11) of this chapter.

(c) Allowable employee business expense deduction is described in (20)(B) of section 39.03 of this chapter and is subject to the limitations provided in that section.

(B) "Municipal Taxable Income" for a nonresident of the municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the municipality as provided in section 39.062 of this chapter, reduced by allowable employee business expense deduction as found in (20)(B) of section 39.03 of this chapter equals "Municipal Taxable Income".

(a) "Income" is defined in section 39.03(14) of this chapter.

(i) "Qualifying Wages" is defined in section 39.03(34).

(ii) "Net profit" is included in "income" and is defined in section 39.03(23) of this chapter. "Net profit" for a nonresident individual includes any net profit of the nonresident but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in section 39.03(27).

(b) "Exempt Income" is defined in section 39.03(11) of this chapter.

(c) "Apportioned or sitused to the municipality as provided in section 39.062 of this chapter" includes the apportionment of net profit income attributable to work done or services performed in the municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in section 39.062(E).

(d) "Allowable employee business expense deduction" as described in (20)(B) of section 39.03 of this chapter, is subject to the limitations provided in that section. For a nonresident of the municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the municipality.

39.042 DOMICILE.

(A) As used in this section:

(1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.

(2) An individual is presumed to be domiciled in the municipality for all or part of a taxable year if the individual was domiciled in the municipality on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the municipality for all or part of the taxable year.

(3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

(1) The individual's domicile in other taxable years;
(2) The location at which the individual is registered to vote;
(3) The address on the individual's driver's license;
(4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
(5) The location and value of abodes owned or leased by the individual;
(6) Declarations, written or oral, made by the individual regarding the individual's residency;
(7) The primary location at which the individual is employed;
(8) The location of financial institutions in which the individual or the individual's spouse have any accounts, including, but not limited to, checking, savings, certificates of deposit, or individual retirement accounts;
(9) The location of issuers of credit cards to the individual or the individual's spouse or of any other persons making installment loans to the individual or the individual's spouse;
(10) The location of institutional lenders which have made loans to, or which are guaranteed by, the individual or the individual's spouse;
(11) The location of investment facilities, brokerage firms, realtors, financial advisors, or consultants used by the individual or the individual's spouse;
(12) The location of either the insurance company that issued or the insurance agent that sold any policy of insurance to the individual or the individual's spouse, including, but not limited to, life, health, disability, automobile, or homeowner's insurance;
(13) The location of law firms, accounting firms, and similar professionals utilized by the individual or the individual's spouse for legal, tax, accounting, financial, or retirement services;
(14) The location of physicians, dentists, osteopaths, optometrists, or other health care providers, or veterinarians utilized by the individual or the individual's spouse;
(15) The location of organizations described in section 501(c) of the Internal Revenue Code to which the individual or the individual's spouse make contributions or other payments or in which they participate as a congregant, member, board member, committee member, adviser, or consultant;
(16) The location of burial plots owned by the individual or the individual's spouse;
(17) The location of business ventures or business entities in which the individual or the individual's spouse has a more than twenty-five percent ownership interest or in which the individual exercises, either individually or jointly, significant control over the affairs of the venture or entity;

(18) The recitation of residency or domicile in a will, trust, or other estate planning document;

(19) The location of the individual's friends, dependents as defined in section 152 of the Internal Revenue Code, and family members other than the individual's spouse, if the individual is not legally separated from the individual's spouse under a decree of divorce or separate maintenance as provided in section 7703(a)(2) of the Internal Revenue Code;

(20) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;

(21) The location of trustees, executors, guardians, or other fiduciaries named in estate planning documents of the individual or the individual's spouse;

(22) The location of all businesses at which the individual or the individual's spouse makes purchases of tangible personal property;

(23) The location where the individual married;

(24) The location or identity of recipients of political contributions made by the individual or the individual's spouse; and

(25) The number of contact periods the individual has with the municipal corporation. For the purposes of this division, an individual has one "contact period" with a municipal corporation if the individual is away overnight from the individual's abode located outside of the municipal corporation and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the municipal corporation.

39.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the City of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

39.05 COLLECTION AT SOURCE.

39.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(A) (1) Each employer, agent of an employer, or other payer located or doing business in the municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the municipality multiplied by the applicable rate of the municipality's income tax, except for qualifying wages for which withholding is not required under section 39.052 of this chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

(a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) or (B)(1)(c) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.

(b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made to the Tax Administrator not later than fifteen (15) days after the last day of each month.

(c) Taxes required to be deducted and withheld shall be remitted semimonthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted on behalf of the municipality in the preceding calendar year exceeded eleven thousand nine hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the municipality in any month of the preceding calendar year exceeded one thousand dollars. The payment under division (B)(1)(c) of this section shall be made to the Tax Administrator not later than one of the following:

(i) If the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month;

(ii) If the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of that month.

(iii) The Tax Administrator may determine, by Administrative Order, when semimonthly withholding will be required.

(d) An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the municipality shall be remitted to the municipality at the same time that the federal tax withholding payment is due.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Tax Administrator and the municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the municipality requires all resident individual taxpayers to file a tax return under section 39.091 of this chapter.

(D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

(E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(2) The failure of an employer, agent of an employer, or other payer to remit to the municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wages, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service Form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this chapter to be tax required to be withheld and remitted for the purposes of this section.

39.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

(A) The following terms as used in this section:

(1) "Employer" includes a person that is a related member to or of an employer.

(2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.

(3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.

(4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.

(5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.

(6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.

(7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

(B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:

(a) The employee's principal place of work is located in the municipality.

(b) The employee performed services at one or more presumed worksite locations in the municipality. For the purposes of this division, "presumed worksite location" means a construction

site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:

(i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
(ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.

(c) The employee is a resident of the municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 39.051 of this chapter.
(d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the municipality.

(2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:

(a) Traveling to the location at which the employee will first perform services for the employer for the day;
(b) Traveling from a location at which the employee was performing services for the employer to any other location;
(c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
(d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
(e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

(D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.

(2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

(3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in section 39.03 of this chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 39.051 of this chapter.

(G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining.

Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.

39.053 COLLECTION AT SOURCE; CASINO AND VLT.

(A) The municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and R.C. 3772.01, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the Internal Revenue Service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the municipality all amounts deducted and withheld during the preceding month.

(2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.

(4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:

(a) A receipt from the Tax Administrator showing that the amounts deducted and withheld, and penalties and interest thereon have been paid;

(b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the Internal Revenue Service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

(1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

(2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.

(3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with R.C. 5747.17 and any rules adopted pursuant thereto.

(4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

(5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.

(6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

(1) A receipt from the Tax Administrator showing that the amounts deducted and withheld, and penalties and interest thereon have been paid;

(2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

(1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty percent of the tax deducted and withheld;

(2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in R.C. 5703.47.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of section 39.07 of this chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.

39.06 INCOME SUBJECT TO NET PROFIT TAX.

39.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

"Municipal Taxable Income" for a taxpayer who is not an individual for the municipality is calculated as follows:

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment equals "Municipal Taxable Income".

(1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.

(i) "Net Profit" for a person other than an individual is defined in section 39.03(23) of this chapter.

(ii) "Adjusted Federal Taxable Income" is defined in section 39.03(1) of this chapter.

(2) "Exempt Income" is defined in section 39.03(11) of this chapter.

(3) "Apportionment" means the apportionment as determined by section 39.062 of this chapter.

39.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the municipality unless the taxpayer is an individual who resides in the municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

(A) Net profit from a business or profession conducted both within and without the boundaries of the municipality shall be considered as having a taxable situs in the municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or 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;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 39.052 of this chapter;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the municipality, the taxpayer may request, or the Tax Administrator of the municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(a) Separate accounting;
(b) The exclusion of one or more of the factors;
(c) The inclusion of one or more additional factors that would provide for a fairer apportionment of the income of the taxpayer to the municipality;
(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of section 39.19 of this chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of section 39.19 of this chapter.

(4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(a) The employer;
(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

(a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided 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) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(2) Gross receipts from the sale of services shall be sitused to the municipal corporation to the extent that such services are performed in the municipal corporation.

(3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be sitused to the municipal corporation.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be sitused to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides. A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under section 39.081 of this chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of section 39.03 of this chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned

to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

39.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in R.C. 4927.01.

(5) "Local exchange telephone service" has the same meaning as in R.C. 5727.01.

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

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

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

(c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

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

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

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

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 39.03(1) of this chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 39.03 of this chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable

year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.062 of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.062 of this chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 39.062 of this chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under section 39.062 of this chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

39.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO.

The municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the municipality passes an ordinance granting a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

39.065 TAX CREDITS TO FOSTER JOB RETENTION.

The municipality, by ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the municipality derives from the retained employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the municipality passes an ordinance allowing such a credit, the municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

39.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

(1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

(a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the

payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(d) Taxes withheld by a casino operator or by a lottery sales agent under R.C. 718.031 are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of section 39.091 of this chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

(4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.

(5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

(C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent of the tax liability for the taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five percent of the tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent of the tax liability for the taxable year;

(d) For an individual, on or before the fifteenth day of the first month of the following, ninety percent of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety percent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment

dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 39.091 of this chapter.

(a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of R.C. 5747.08.

(b) For taxpayers who are not individuals and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

(4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 39.10 of this chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve (12) months and the taxpayer filed a return with the municipal corporation under section 39.091 of this chapter for that year.

(3) The taxpayer is an individual who resides in the municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

39.08 CREDIT FOR TAX PAID.

39.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A) If a resident of the municipality is subject to a municipal income tax in another municipality as well as in the City of Beavercreek, he shall not pay a total municipal income tax (on the same income) greater than the tax imposed at the highest rate to which he is subject.

(B) Every individual who resides in the municipality who receives net profits, qualifying wages, commissions or other taxable income for work done or services performed or rendered outside the City of Beavercreek, and who is liable and has paid to another municipality an income tax on the same income taxable and taxed under this chapter, shall be allowed a credit against the tax imposed by this chapter (on the same income to the extent such income is taxed under this chapter) of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the Beavercreek tax imposed on the income earned in the other municipality(ies) where such tax is paid. The amount of income reported on federal Schedules C, E, and F, earned in and taxed by a given municipality (as a percentage of total income reported on federal Schedules C, E, and F, attributable to taxing and non-taxing jurisdictions) shall be used to determine each municipality's contribution to the City of Beavercreek's net profits taxable income, prior to calculation of the resident City credit for taxes paid to other municipalities on net profit income. The rate to be used for calculation of this credit shall be the lesser of the resident City tax rate or the appropriate rate at which such income was taxed by such other municipality. The resident City credit(s) for taxes paid to another municipality(ies) on net profit income shall be calculated as follows:

Beavercreek net profits taxable income ($) X municipality contribution (%) X tax rate (%) = allowable credit.

(C) The income tax credit which may equal to but not exceed one hundred percent of the tax owed by the taxpayer as set forth in this section, shall not be changed without first obtaining the approval of the change by a majority of the electors of the City at a general election.

39.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

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

(2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

39.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE.

The municipality shall grant a credit against its tax on income to a resident of the municipality who works in a joint economic development zone created under R.C. 715.691 or a joint economic development district created under R.C. 715.70, 715.71, or 715.72 to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to section 39.081 of this chapter.

39.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the municipality, but should have been deposited or paid to another municipal corporation, is allowable by the municipality as a refund, but is subject to the three-year limitation on refunds as provided in section 39.096 of this chapter.

(B) Income tax that should have been deposited or paid to the municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 39.096, the municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the municipality claims is due. If the municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in section 39.096 of this chapter.

(D) Nothing in this section requires the municipality to allow credit for tax paid to another municipal corporation if the municipality has reduced credit for tax paid to another municipal corporation. Section 39.081 of this chapter regarding any limitation on credit shall prevail.

39.09 ANNUAL RETURN.

39.091 RETURN AND PAYMENT OF TAX.

(A) (1) An annual return with respect to the income tax levied on municipal taxable income by the municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the municipality under subsection 39.051(C) of this chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the municipality.

(3) All resident individual taxpayers shall file an annual municipal income tax return with the municipality, regardless of income or liability.

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

(C) If an individual is unable to complete and file a return or notice required by the municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service Form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service Form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

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

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway or a portal provided by the municipality. The Department of Taxation shall publish a method of electronically submitting the documents required under this division through the Ohio Business Gateway on or before January 1, 2016. The Department of Taxation shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division

(F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of R.C. 5747.08. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the municipality or Tax Administrator.

(b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the municipality or Tax Administrator.

(c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

(2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(3) With respect to taxpayers to whom section 39.092 of this chapter applies, to the extent that any provision in this division conflicts with any provision in section 39.092 of this chapter, the provision in section 39.092 of this chapter prevails.

(H) (1) For taxable years beginning after 2015, the municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.

(2) Any taxpayer not required to remit tax to the municipality for a taxable year pursuant to division (H)(1) of this section shall file with the municipality an annual net profit return under division (F)(3) and (4) of this section

(I) (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is

required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the time stamp assigned by the first electronic system receiving that payment.

(J) The amounts withheld for the municipality by an employer, the agent of an employer, or other payer as described in section 39.051 of this chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the municipality shall accept for filing a generic form of any income tax return, report, or document required by the municipality in accordance with this chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this chapter and of the municipality's ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in section 39.052 of this chapter.

(2) A person may notify a Tax Administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The Tax Administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the Tax Administrator shall not require the person to file any tax return for the taxable year unless the Tax Administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the Tax Administrator for the taxable year. Nothing in division (N) of this section prohibits the Tax Administrator from performing an audit of the person.

39.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the municipality in accordance with this chapter during the period of the member's or civilian's duty

service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

39.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

39.094 EXTENSION OF TIME TO FILE.

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

(B) Any taxpayer that qualifies for an automatic federal extension of time for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

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

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

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of R.C. 5747.08, a taxpayer shall automatically receive an extension

for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return.

39.095 AMENDED RETURNS.

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the municipality in accordance with this chapter must be altered.

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

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 39.19 of this chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 39.096 of this chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

39.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

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

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under section 39.18 of this chapter.

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

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

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

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

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of section 39.10 of this chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 39.10 of this Chapter.

39.10 PENALTY, INTEREST, FEES, AND CHARGES.

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five (5) percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

(b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016;

(2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016 but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this municipality.

(C) The municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the municipality any return required to be filed.

(1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.

(2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty not to exceed fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the

return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the municipality's post-judgment collection costs and fees, including attorney's fees.

39.11 AUDIT.

(A) At or before the commencement of an audit, as defined in section 39.03(3) of this chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

39.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

39.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

39.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this chapter, including without limitation:

(A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(B) Appoint agents and prescribe their powers and duties;

(C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

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

(E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 39.062 of this chapter;

(G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(H) Destroy any or all returns or other tax documents in the manner authorized by law;

(I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 39.051 of this chapter.

39.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

(A) As used in this section, "claim" means a claim for an amount payable to the municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the municipality:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement and shall not extinguish or otherwise affect the liability of any other person.

(E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

(2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.

39.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator 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 filed, to ascertain the tax due under this chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

39.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to section 39.10 of this chapter, in addition to any applicable penalty described in section 39.99 of this chapter.

(2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to section 39.10 of this chapter.

(3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 39.99 of this chapter for a violation of 39.15 of this chapter, and any other penalties that may be imposed by the Tax Administrator by law.

39.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by R.C. Chapter 718 or by the charter or ordinance of the municipality is confidential, and no person shall access or disclose such information except in accordance with a

proper judicial order or in connection with the performance of that person's official duties or the official business of the municipality as authorized by R.C. Chapter 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(C) As used in this section, "INCOME TAX DEPARTMENT OR OFFICE" means the office administering this chapter.

(1) All employees of the Municipality Income Tax Office shall maintain complete confidentiality over all data and statistical information compiled by them in their capacity as employees of the Municipality Income Tax Office, subject to the exceptions provided for in this section. This section shall apply only to the municipality income tax, and not to any other tax data gathered by such employees in the normal course of their employment. All confidential information may be subject to Court Order or subpoena or may be disclosed upon a proper release executed by the affected taxpayer.

(2) The following statistical data may be transmitted to another municipality department for internal administrative purposes: information that may be obtained from a separate source, including names, addresses and telephone numbers.

(3) The following statistical data may be transmitted to another municipality department for internal administrative purposes: data regarding the collective payroll withholding taxes of a business entity located within the municipality, as long as the business entity involves more than one individual for whom the withholding tax payments are being generated.

(4) The following statistical data may be transmitted to another municipality department for internal administrative purposes: data regarding the number of employees and the total payroll taxes generated by all employees of a business entity located within the municipality as long as the business entity employs more than one individual at any time. This data shall only include the total number of employees and the combined total payroll taxes and shall not include earnings or payroll taxes of individual employees of such business entity.

(5) No employee of the municipality income tax department shall disclose to the general public or to any other municipality department data concerning individual earnings or profits earned by an individual or by a business entity. No statistical or administrative data shall be disseminated or disclosed to members of the general public.

(6) Upon proper release, individual data, including confidential data, may be released. The municipality income tax office shall maintain a copy of the release after such data has been disclosed.

39.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the municipality or the Tax Administrator.

39.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a tax imposed by the municipality in accordance with this chapter.

(3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

(3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the municipality's income tax ordinance;

(4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(5) The effective date of any change in the taxpayer's material facts or circumstances;

(6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of section 39.15 of this chapter.

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator

has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.

39.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

(A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under R.C. 5703.056.

(2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

(3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in R.C. 718.18 is prima facie evidence that delivery is complete and that the assessment is served.

(B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty percent, as determined by voting rights, of the addressee's business.

(2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

39.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

(A) (1) The legislative authority of the municipality shall maintain a Local Board of Tax Review to hear appeals as provided in R.C. Chapter 718.

(2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review must be domiciled in the municipality. Two members shall be appointed by the legislative authority of the municipality, and may not be employees, elected officials, or contractors with the municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the municipality. This member may be an employee of the municipality but may not be the Director of Finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

(3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the municipality shall serve at the discretion of the administrative official.

(4) Members of the Local Board of Tax Review appointed by the legislative authority may be removed by the legislative authority as set forth in R.C. 718.11(A)(4).

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

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

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

(8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the Board.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the Board by filing a request with the Board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and/or may be represented by an attorney at law, certified public accountant, or other representative. The Board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The Board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board shall issue a final determination on the appeal within ninety days (90) after the Board's final hearing on the appeal and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board's final determination as provided in R.C. 5717.011.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under R.C. 149.43. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to R.C. 121.22. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

39.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

(i) Three years after the tax was due or the return was filed, whichever is later; or
(ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in section 39.18 of this chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

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

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in section 39.096 of this chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under section 39.18 of this chapter, of the Ohio Board of Tax Appeals, or any court to which the decision of the Ohio Board of Tax Appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by section 39.096 of this chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

(1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;

(2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

39.20 ADOPTION OF RULES.

(A) Pursuant to R.C. 718.30, the municipality, pursuant to this chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the municipality.

(B) All rules adopted under this section shall be published and posted on the internet.

39.21 INFORMATION BY LANDLORDS.

(A) The owner or manager or any person in control who rents or leases to other persons real estate for any purpose in the City must make a report at the end of the first month of every quarter to the Tax Office as to the identity of their tenants, lessees or other persons having any interest in such real estate and to the best of their knowledge the address of same

(B) Any condominium or landominium association is required to report at the end of the first month of every quarter to the Tax Office as to the identify of owners, tenants, lessees or other persons having any interest in such real estate and the address of same to the extent that it has knowledge thereof or has the reasonable means of determining. The President of the condominium or landominium association is responsible to provide this information, or in the absence of failure to provide, any association officer is responsible for providing the above stated report.

39.22 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(A) A taxpayer may elect to be subject to sections 39.22 to 39.37 in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

(1) The State Tax Commissioner shall serve as the sole administrator of the municipal net profit tax for which the taxpayer as defined in 39.23(C) of this chapter is liable for the term of the election;

(2) The Tax Commissioner shall administer the tax pursuant to R.C. 718.80 to 718.9, sections 39.22 to 39.37 of this chapter, and any applicable provision of R.C. Chapter 5703.

(B)

(1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the Tax Commissioner and the City of Beavercreek, on a form prescribed by the Tax Commissioner.

(2)

(a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the Tax Commissioner and the City of Beavercreek of its termination of the election.

(b) A notification of termination shall be made, on a form prescribed by the Tax Commissioner, on or before the first day of the third month of any taxable year.

(c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 39.22 to 39.37 of this chapter, and is instead subject to the provisions set forth in the remainder of this chapter.

(C) The Tax Commissioner shall enforce and administer sections 39.22 to 39.37 of this chapter. In addition to any other powers conferred upon the Tax Commissioner by law, the Tax Commissioner may:

(1) Prescribe all forms necessary to administer those sections;

(2) Adopt such rules as the Tax Commissioner finds necessary to carry out those sections;

(3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the Tax Commissioner by those sections.

(D) The Tax Commissioner shall not be considered a Tax Administrator, as that term is defined in R.C. 718.01 and section 39.03 of the City of Beavercreek Codified Ordinances.

39.23 DEFINITIONS.

If a term used in sections 39.22 to 39.37 that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall have control over the use of the term in Title LVII of the Ohio Revised Code, unless the term is defined in R.C. Chapter 5703, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and section 39.03, the definition in this section shall control for all uses of that term in sections 39.22 to 39.37.

As used in sections 39.22 to 39.37 of the Beavercreek Codified Ordinances only:

(A) "Municipal taxable income" means income apportioned or sitused to the municipal corporation under section 39.24, as applicable.

(B) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation as described in division (D)(5) of R.C. 718.01 and section 39.03 of this chapter, 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 a trade or business or assets held for the production of income.

(2) Add an amount equal to five percent of intangible income deducted under division (B)(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 (B)(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 (B)(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 or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.

(7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under R.C. 4313.02.

(8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.28.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 39.28.

If the taxpayer is not a C corporation and is not a publicly traded partnership that has made the election described in division (23)(E) of section 39.03, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States Department of Treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (B) 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.

(C) "Taxpayer" has the same meaning as in section 39.03(47) of the Beavercreek Codified Ordinances, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under R.C. Chapter 5745. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

(D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to sections 39.22 to 39.37 for the purpose of reporting municipal income taxes and includes declarations of estimated tax.

(E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of sections 39.22 to 39.37 is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The Tax Commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.

(F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 39.32 of this chapter.

39.24 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the City of Beavercreek and that has made the election under section 39.22 of this chapter.

(A) Except as otherwise provided in division (B) of this section, net profit from a business or profession conducted both within and without the boundaries of the City of Beavercreek shall be considered as having a taxable situs in the City of Beavercreek for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City of Beavercreek during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or 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;

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City of Beavercreek to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 39.052;

(3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City of Beavercreek to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(B)

(1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the City of Beavercreek, the taxpayer may request, or the Tax Commissioner may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(a) Separate accounting;
(b) The exclusion of one or more of the factors;
(c) The inclusion of one or more additional factors that would provide for a fairer apportionment of the income of the taxpayer to the municipal corporation;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Commissioner denies the request in an assessment issued within the period prescribed by division (A) of section 39.32 of this chapter.

(3) The Tax Commissioner may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of section 39.32 of this chapter.

(C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(a) The employer;
(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
(c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

(3) Any other location, if the Tax Commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Commissioner's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be sitused to the City of Beavercreek as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused to the City of Beavercreek only if, regardless of where title passes, the property meets either of the following criteria:

(a) The property is shipped to or delivered within the City of Beavercreek from a stock of goods located within the City of Beavercreek.

(b) The property is delivered within the City of Beavercreek from a location outside the City of Beavercreek, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Beavercreek and the sales result from such solicitation or promotion.

(2) Gross receipts from the sale of services shall be sitused to the City of Beavercreek to the extent that such services are performed in the City of Beavercreek.

(3) To the extent included in income, gross receipts from the sale of real property located in the City of Beavercreek shall be sitused to the City of Beavercreek.

(4) To the extent included in income, gross receipts from rents and royalties from real property located in the City of Beavercreek shall be sitused to the City of Beavercreek.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused to the City of Beavercreek based upon the extent to which the tangible personal property is used in the City of Beavercreek.

(E) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the City of Beavercreek in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City of Beavercreek based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City of Beavercreek to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(F) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(B)(ii) of section 39.03 of this chapter by the City of Beavercreek or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City of Beavercreek. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City of Beavercreek any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City of Beavercreek under this section.

(G) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

39.25 INFORMATION PROVIDED TO TAX ADMINISTRATORS; CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by sections 39.22 to 39.37 of this chapter is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in R.C. 4123.271 or 5703.21. The Tax Commissioner may furnish the Internal Revenue Service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(B) In May and November of each year, the Tax Commissioner shall provide the City of Beavercreek Tax Administrator with the following information for every taxpayer that filed tax returns with the Commissioner under sections 39.22 to 39.37 of this chapter and that had municipal taxable income apportionable to the City of Beavercreek under this chapter for any prior year:

(1) The taxpayer's name, address, and federal employer identification number;
(2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the City of Beavercreek pursuant to section 39.24 of this chapter;
(3) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
(4) The amount of any credit claimed under R.C. 718.94.

(C) Not later than thirty days after each distribution made to municipal corporations under R.C. 718.83, the Tax Commissioner shall provide to the City of Beavercreek a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the City of Beavercreek and the amount of each such taxpayer's estimated payment.

(D) The information described under divisions (B) and (C) of this section shall be provided to the individual or individuals designated by the City of Beavercreek Tax Administrator under R.C. 718.83(D).

(E)

(1) The City of Beavercreek expects that the Tax Commissioner will, pursuant to R.C. 718.84(E) provide tax returns and other information it receives in the performance of its administration of the municipal net profits tax for taxpayers making the election provided in section 39.22 of this chapter. The Tax Administrator shall review these returns and information, as well as the information received pursuant to divisions (B) and (C) of this section and has discretion to refer any taxpayer for audit by the Tax Commissioner. Such referral shall be made on a form prescribed by the Tax Commissioner and shall include any information that forms the basis for the referral.

(2) If the Tax Commissioner declines to audit a taxpayer referred by the Tax Administrator under this section, the City of Beavercreek reserves its right to pursue any and all remedies, whether at law or in equity, to ensure that the correct tax liability has been calculated and paid by the taxpayer.

39.26 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

(A)

(1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under section 39.30, shall be submitted to the Tax Commissioner, on a form and in the manner prescribed by the Commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.

(2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with sections 39.23, 39.24, and, if applicable, 39.28 onto its annual return.

(3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the Tax Commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.

(B)

(1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.

(2)

(a) The Tax Commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the Tax Commissioner under sections 39.22 to 39.37, copies of any relevant documents or other information.

(b) A taxpayer that files an annual tax return electronically through the Ohio Business Gateway or in another manner as prescribed by the Tax Commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the Tax Commissioner. The Department of Taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.

(3) After a taxpayer files a tax return, the Tax Commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.

(D)

(1)

(a) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the Tax Commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

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

(c) An extension of time to file under division (D)(1) of this section is not an extension of the time to pay any tax due unless the Tax Commissioner grants an extension of that date.

(2) If the Tax Commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with section 39.011 of this chapter, the Tax Commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(E) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Commissioner with information that is missing from the return, to contact the Tax Commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Commissioner and has shown to the preparer or other person.

(F) When income tax returns or other documents require the signature of a tax return preparer, the Tax Commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature.

39.27 ELECTRONIC FILING.

(A) All taxpayers that have made the election allowed under section 39.22 of this chapter shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio Business Gateway or in another manner as prescribed by the Tax Commissioner.

(B) A taxpayer may apply to the Tax Commissioner, on a form prescribed by the Tax Commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the Tax Commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by nonelectronic means.

(C) The Tax Commissioner may adopt rules establishing the following:

(1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;

(2) The information taxpayers must submit when filing tax returns by electronic means.

39.28 CONSOLIDATED RETURNS.

(A) As used in this section:

(1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

(2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.

(3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in R.C. 4927.01.

(5) "Local exchange telephone service" has the same meaning as in R.C. 5727.01.

(B)

(1) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated tax returns under division (B)(2) of this section or a taxpayer receives permission

from the Tax Commissioner. The Tax Commissioner shall approve such a request for good cause shown.

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

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

(4) When a taxpayer makes the election allowed under section 39.22 of this chapter, a valid election made by the taxpayer under section 39.063 is binding upon the Tax Commissioner for the remainder of the five-year period.

(5) When an election made under section 39.22 of this chapter is terminated, a valid election made under this section is binding upon the Tax Administrator for the remainder of the five-year period.

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

(D) A taxpayer shall prepare a consolidated tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

(E)

(1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated tax return shall compute adjusted federal taxable income, as defined in section 39.23, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated tax return shall make any adjustment otherwise required under division (B) of section 39.23 to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.24, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 39.24, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

(4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:

(a) The corporation filing the consolidated tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 39.24, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with sections 39.22 to 39.37 on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated tax return shall make the computations required under section 39.24 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under section 39.22 to 39.37 or Chapter 5703 of the Ohio Revised Code to the corporation, an affiliated group of which the

corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

39.29 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under section 39.22 fails to pay any tax as required under sections 39.22 to 39.37, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by R.C. 5703.47 from the date prescribed for its payment until it is paid or until the date an assessment is issued under section 39.32, whichever occurs first.

39.30 DECLARATION OF ESTIMATED TAXES.

(A) As used in this section:

(1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.

(2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.

(B)

(1) Except as provided in division (B)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Commissioner, if the amount payable as estimated taxes is at least two hundred dollars.

(2) Except as provided in division (B)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Commissioner.

(3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) The Tax Commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(C) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the Tax Commissioner at the times and in the amounts prescribed in division (C)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.

(1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes shall be as follows:

(a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent of the combined tax liability for the taxable year;

(b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five percent of the combined tax liability for the taxable year;

(c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent of the combined tax liability for the taxable year;

(d) On or before the fifteenth day of the twelfth month of the taxable year, ninety percent of the combined tax liability for the taxable year.

(2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.

(3)

(a) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(b) Upon receiving a payment of estimated taxes under this section, the Tax Commissioner shall immediately forward the payment to the Treasurer of State. The Treasurer shall credit the payment in the same manner as in division (B) of R.C. 718.85.

(D)

(1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by R.C. 5703.47 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety percent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently due.

(3) All amounts collected under this section shall be considered as taxes collected under sections 39.22 to 39.37 and shall be credited and distributed to municipal corporations in accordance with R.C. 718.83 .

(E) An underpayment of any portion of a combined tax liability shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety percent of the combined tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.

(2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a municipal income tax return for that year.

39.31 ADDITIONAL PENALTIES.

(A) In addition to any other penalty imposed by sections 39.22 to 39.37 or R.C. Chapter 5703, the following penalties shall apply:

(1) If a taxpayer required to file a tax return under sections 39.22 to 39.37 fails to make and file the return within the time prescribed, including any extensions of time granted by the Tax Commissioner, the Tax Commissioner may impose a penalty not exceeding twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.

(2) If a person required to file a tax return electronically under sections 39.22 to 39.37 fails to do so, the Tax Commissioner may impose a penalty not to exceed the following:

(a) For each of the first two failures, five percent of the amount required to be reported on the return;

(b) For the third and any subsequent failure, ten percent of the amount required to be reported on the return.

(3) If a taxpayer that has made the election allowed under section 39.22 fails to timely pay an amount of tax required to be paid under this chapter, the Tax Commissioner may impose a penalty equal to fifteen percent of the amount not timely paid.

(4) If a taxpayer files what purports to be a tax return required by sections 39.22 to 39.37 that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of sections 39.22 to 39.37 of the Beavercreek Codified Ordinances, a penalty of up to five hundred dollars may be imposed.

(5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under sections 39.22 to 39.37, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred percent of the tax required to be shown on the return.

(6) If any person makes a false or fraudulent claim for a refund under section 39.33, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred percent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 39.32 without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the Tax Commissioner. The Tax Commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under sections 39.22 to 39.37 and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under R.C. 718.83.

39.32 ASSESSMENTS AGAINST TAXPAYER.

(A) If any taxpayer required to file a return under section 39.22 to 39.37 fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the Tax Commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the Tax Commissioner's possession.

The Tax Commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date

the return was filed. Such time limit may be extended if both the taxpayer and the Tax Commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in section 39.33 for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by sections 39.22 to 39.37, or that files a fraudulent return. The Tax Commissioner shall give the taxpayer assessed written notice of the assessment as provided in R.C. 5703.37. With the notice, the Tax Commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the Tax Commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the Tax Commissioner prior to the date shown on the final determination. If the petition has been properly filed, the Tax Commissioner shall proceed under R.C. 5703.60.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the Tax Commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the Tax Commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by R.C. 5703.47 from the day the Tax Commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under R.C. 131.02, whichever comes first. If the unpaid portion of the assessment is certified to the Attorney General for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by R.C. 5703.47 from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the Tax Commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the Tax Commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the Tax Commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in R.C. 5703.37 within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the Tax Commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the Tax Commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the Tax Commissioner, upon petition so filed or pursuant to a decision of the Board of Tax Appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 39.33, with interest on that amount as provided by that section.

39.33 REFUND APPLICATIONS.

(A) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under sections 39.22 to 39.37, including assessments, shall be filed with the Tax Commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of section 39.33. The application shall be filed in the form prescribed by the Tax Commissioner.

(B)

(1) On the filing of a refund application, the Tax Commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the Tax Commissioner shall certify that amount to the Director of Budget and Management and the Treasurer of State for payment from the tax refund fund created in R.C. 5703.052. If the amount is greater than ten dollars but less than that claimed, the Tax Commissioner shall proceed in accordance with R.C. 5703.70.

(2) Upon issuance of a refund under this section, the Tax Commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under R.C. 718.83.

(C) Any portion of a refund determined under division (B) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by R.C. 5703.47 from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.

39.34 AMENDED RETURNS.

(A) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under section 39.22 and used to determine the tax due under sections 39.22 to 39.37 must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the Internal Revenue Service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the Tax Commissioner in such form as the Tax Commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Commissioner before filing the amended return.

(B) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. An amended return required by this section is a return subject to assessment under section 39.32 for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(C) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in section 39.33, if the application otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in section 39.33. The application shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return.

39.35 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(A) The Tax Commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is

subject to sections 39.22 to 39.37 for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as required under those sections. Upon written request by the Tax Commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the Tax Commissioner, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer or other person that is subject to sections 39.22 to 39.37 of the Beavercreek Codified Ordinances shall be open to the Tax Commissioner's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Commissioner may require any person, by notice served on that person, to keep such records as the Tax Commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(C) The Tax Commissioner may examine under oath any person that the Tax Commissioner reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.

39.36 CREDITS.

(A) A credit, granted by resolution or ordinance of the City of Beavercreek pursuant to section 39.064 or 39.065, shall be available to a taxpayer that has made the election allowed under section 39.22, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the Tax Commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

(1) A copy of the agreement entered into by the City of Beavercreek and taxpayer under section 39.064 or 39.065;

(2) A copy of the ordinance or resolution authorizing the agreement entered into between the City of Beavercreek and the taxpayer.

(B)

(1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the City of Beavercreek granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.

(2) Such documentation shall be provided in the form prescribed by the Tax Commissioner.

(3) Nothing in this section shall be construed to authorize the Tax Commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by the City of Beavercreek and taxpayer under section 39.064 or 39.065, or to modify the terms or conditions of any such existing agreement.

39.37 RECKLESS VIOLATIONS; PENALTIES.

(A) Except as provided in division (B) of this section, whoever recklessly violates division (A) of section 39.25 shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(B) Each instance of access or disclosure in violation of division (A) of section 39.25 constitutes a separate offense.

(C) These specific penalties shall not be construed to prevent the City of Beavercreek from prosecuting any and all other offenses that may apply.

39.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in section 39.19 of this chapter.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in section 39.091 of this chapter as though the same were continuing.

39.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair

any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

39.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates section 39.15 of this chapter, division (A) of section 39.14 of this chapter, or section 39.051 of this chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of section 39.14 of this chapter constitutes a separate offense.

(D) Whoever commits the following violations of this chapter is guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(1) Fail, neglect or refuse to make any return or declaration required by this chapter; or

(2) Knowingly make any incomplete return; or

(3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this chapter; or

(4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the municipality municipal corporation as required by section 39.051; or

(5) Neglect or refuse to withhold or remit municipal income tax from employees; or

(6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

(7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or

(9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of an employee's residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

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

(F) For purposes of this section, the term "person" shall, in addition to the meaning prescribed in section 39.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the City, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this chapter.

(G) For purposes of this section, the failure of any employer, agent of the employer, other payer, taxpayer, or person to receive or procure a return, declaration, or other required form shall not be an excuse from filing such information return, declaration, or other required form, or from paying tax.