

TITLE NINE - Taxation
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CHAPTER 195
Income Tax

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CROSS REFERENCES

Limitation on rate of taxation - see CHTR. 15.01
 Municipal income taxes - see Ohio R.C. Ch. 718

195.01 PURPOSE.

To provide funds for the purposes of general municipal functions of the City of Stow, there is hereby levied a tax on all income, including salaries, wages, commissions and other compensations, and on net profits as provided in this chapter.
 (Ord. 2000-130. Passed 4-13-00.)

195.02 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be paid into the General Fund of the Municipality. Forty percent (40%) of the net tax collected after providing for the payment of all costs of installation, collecting, enforcing and administering the tax levied by Codified Ordinance Chapter 195 shall be transferred to the Capital Improvements Fund and subsequently to other funds or sub-funds, including the Street Construction Fund, to be used for existing and future capital projects and/or expansion or for debt service for existing and future capital improvements, or for equipment or other expenditures for purposes approved by City Council, but only for expenses related to capital improvements which have an estimated life or usefulness of five years or more, as defined by the Ohio Public Securities Law or as City Council may approve. (Ord. 2001-231. Passed 12-13-01.)

195.03 DECLARATION OF LEGISLATIVE INTENT.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 2000-130. Passed 4-13-00.)

195.10 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

- (a) **Administrator**
"Administrator" means the Tax Administrator.
- (b) **Association**
"Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons. Limited Liability Corporations (LLC's) and Subchapter S corporations (as defined in the Federal Tax Code, 26 U.S.C. 1361) shall be treated as Associations, for the purpose of this Chapter.
- (c) **Board of Review**
"Board of Review" means the Board created by and constituted as provided in Section 195.85.

- (d) **Business**
"Business" means an enterprise, activity, profession, public utility, public service or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity.
- (e) **Corporation**
"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory, foreign country or dependency.
- (f) **Employee**
"Employee" means one who works for wages, salary, commission or other type of compensation from an employer.
- (g) **Employer**
"Employer" means an individual, partnership, association, corporation, governmental body, unit, agency or any other entity, whether or not organized for profit, who or that provides one or more persons on a salary, wage, commission or other compensation.
- (h) **Fiscal year**
"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) **Fundamental change**
"Fundamental change" means any substantial alteration in organizational form by an entity including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.
- (j) **Gross Income**
"Gross income" shall include all monies derived from any source whatsoever, including:
- (1) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the City, including distributive shares of an unincorporated business entity or association against which Stow municipal income tax is not already levied.
 - (2) All salaries, wages, commissions, other compensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in the City.
 - (3) The portion attributable to the City of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the City of Stow. Such portion shall be determined as provided in Section 195.21 and in accordance with the regulations adopted by the Board of Review pursuant to this Chapter.
- (k) **Gross receipts**
"Gross receipts" means the total income from any source whatsoever.
- (l) **Manager**
"Manager" means any of the employer's officers, partners, employees or persons having control or supervision of the employer's business, and/or employees or persons charged with the responsibility of filing the return, paying taxes, and otherwise complying with this chapter.

(m) **Net Profit**

"Net profit" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses except the tax imposed by this Chapter and federal and other taxes based on income, either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, adjusted to the requirements of this chapter, and the rules and regulations promulgated by the Tax Administrator.

Net profits shall include any amount or value received, realized, or recognized in the sale or disposition of tangible personal property or real property used in business, in excess of book value.

(n) **Nonresident**

"Nonresident" means an individual who is not a resident of the City of Stow.

(o) **Nonresident unincorporated business entity**

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

(p) **Person**

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person", as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(q) **Place of business**

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

(r) **Resident**

"Resident" means an individual domiciled in or whose usual place of abode is in the City of Stow for any portion of the tax year.

(s) **Resident unincorporated business entity**

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

(t) **Taxable income**

"Taxable income" means Gross income minus the deductions and credits allowed by this Chapter.

(u) **Taxable year**

"Taxable year" means the calendar year, or fiscal year upon which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.

(v) **Taxpayer**

"Taxpayer" means a person required by this chapter to file a return or pay a tax and shall be deemed to include any and all residents of the City of Stow.

(Ord. 2000-130. Passed 4-13-00.)

195.20 IMPOSITION.

An annual tax for the purposes specified in Section 195.01 shall be imposed on and after January 1, 1971 at the rate of one percent (1 %) per annum and imposed on and after January 1, 1972 at the rate of one and one-half percent (1.5 %) per annum and imposed on and after January 1, 1990 at the rate of two percent (2 %) per annum on all taxable income.

(Ord. 2000-130. Passed 4-13-00.)

195.21 DETERMINATION OF INCOME SUBJECT TO TAX.

(a) In the taxation of income which is subject to this municipal income tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the city shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the city, then only such portion shall be considered as having a taxable situs in the city for purposes of this tax. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in this municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio established under Ohio R.C. 718.02.

(b) In determining income subject to taxation, losses from the operation of a business or profession cannot be used to reduce wages from employment compensation.
(Ord. 2000-130. Passed 4-13-00.)

195.22 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1971, allocable to the City of Stow may be applied against the portion of the profit of succeeding years allocable to the City of Stow until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior years.

(b) The portion of a net operating loss sustained shall be allocated to the City of Stow in the same manner as provided herein for allocating net profits to the City of Stow.

(c) The Administrator shall provide rules and regulations setting forth the manner in which such net operating loss carry-forward shall be determined.
(Ord. 2000-130. Passed 4-13-00.)

195.23 CONSOLIDATED RETURNS

(a) Filing of consolidated returns may be permitted, required or denied in accordance with rules and regulations prescribed by the Administrator.

(b) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City of Stow constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Stow. If the Administrator finds that net profits are not properly allocated to the City of Stow by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Stow.
(Ord. 2000-130. Passed 4-13-00.)

195.24 EXCEPTIONS

Exceptions: The tax provided for herein shall not be levied on:

- (a) The military pay or allowance of active members of the armed forces of the United States, including any bonus received through the Ohio Veterans Bonus Program.
- (b) The gross income and gross receipts of religious, charitable, fraternal, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
- (c) Unemployment insurance benefits, welfare benefits, and pensions paid as a result of retirement.
- (d) Proceeds of insurance paid by reason of death of the insured; retirement disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;
- (e) Alimony received.
- (f) Receipts from seasonal or casual entertainment, amusements, fund raising, sports events and health and welfare activities when conducted by bona fide charitable, religious and educational organizations and associations.
- (g) The income of individuals under eighteen years of age.
- (h) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State from which the City of Stow is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (i) Salaries, income, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or by act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (j) Salaries, wages, commissions and other compensation, other income and net profits, including interest and dividends as provided in Ohio R.C. 718.01, the taxation of which is prohibited by the Constitution of the State or by any act of the Ohio General Assembly limiting the power of the City of Stow to impose net income tax. (Ord. 2011-3. Passed 1-13-11.)

195.25 RETURN AND PAYMENT.

(a) Each person who was a resident of Stow at any time during the taxable year, except as herein provided, shall, whether or not a tax is due thereon; and each person who was a nonresident who has a business operation within Stow; and each nonresident person who has been employed within Stow and received any type of compensation or salary where Stow income tax is either not withheld or such withholding is not equal to the Stow income tax owed shall make and file a return on or before the later of: April 15 of the following year or the same filing deadline as Federal Form 1040.

(Ord. 2012-86. Passed 6-14-12.)

When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable on request from the Administrator or on other forms deemed acceptable by the Administrator setting forth:

- (1)
 - A. The aggregate amount of salaries, wages, commissions and other compensation earned; and
 - B. The gross income from a business, profession or other activity less ordinary, reasonable and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the tax; and
 - C. All other taxable income.
 - (2) The amount of tax imposed by this chapter on the above.
 - (3) Other pertinent statements, information returns or other information as the Administrator may require.
- (b)
- (1) The taxpayer making a return shall, at the time of the filing thereof, pay the Administrator the balance of tax due, if any, after deducting:
 - A. The amount, of the municipal income tax deducted or withheld at the source pursuant to Section 195.26;
 - B. Any portion of the tax that has been paid on declaration by the taxpayer pursuant to Section 195.30;
 - C. Any credit allowable under the provisions of Section 195.90 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time for filing the return.
 - (2) Should the return or the records of the Administrator indicate an overpayment of the tax to which the City of Stow is entitled under the provisions of this chapter, the overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. However, no additional taxes or overpayments of less than one dollar (\$1.00) shall be refunded or collected.

(c) The Administrator may extend the time for filing of the annual return on the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested or granted by the Internal Revenue Service for the filing of the federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. However, interest shall be assessed at the rate of one and one-half percent (1.5%) per month on any balance due from the date the filing was originally due and payable.

(d) The person making that payment shall pay the cost of processing any payment of tax, penalty or interest, made in other than the usual and customary manner. Such cost shall be deducted from the payment being made, with the remainder being applied to any other amounts owed. (Ord. 2000-130. Passed 4-13-00.)

195.26 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the City shall deduct, at the time of the payment of such salary, wages, commissions or other compensation, the tax authorized under this Chapter from the gross salaries, wages, commissions or other compensation due by the employer to the employee. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld. Any tax deducted and withheld is to be considered paid to the City for purposes of determining employee payments or credits.

(b) Each such employer shall, on or before the last day of the month following each calendar quarter make a return and remit to the City of Stow the tax hereby required to be withheld. Monthly payments of taxes withheld shall be made by each employer, if the taxes deducted in the prior calendar year were more than two thousand four hundred dollars (\$2,400) or if the deductions otherwise normally exceed two hundred dollars (\$200.00) per month. The payment shall be made to the City of Stow within fifteen days after the close of each calendar month.

(c) Such returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator.

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

- (1) Every manager is deemed to be a trustee of the City in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to the City for payment of such trust funds, whether actually collected by such employer or not.
- (2) All managers shall be personally liable, jointly and severally, with the employer, to the extent of the tax, interest and penalty for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.
- (3) No change in structure or organization by an employer, including a fundamental change, discharges its manager from liability for the employer's or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

(e) No person shall be required to withhold the tax on wages or other compensation paid domestic employees employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(f) On or before January 31 of each year each employer shall file a withholding return, which shall include a copy of the employees Federal W-2 without alteration or deletion therefrom and other information, as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the rules and regulations adopted by the Administrator.

(g) The Administrator for good cause may require immediate return and payment to be submitted to his office.

(h) An individual, partnership, association, corporation or other entity engaged in the business of construction work and who will perform construction work in the City of Stow shall obtain a tax account number, issued by the Income Tax Department, prior to beginning construction work. The Income Tax Department shall also issue a certificate of registration, which the contractor shall file with the Building Department and the Engineering Department. Failure to possess a valid certificate shall be cause for suspension of work by the Building Department, the plans and permits center, the Engineering Department and/or Income Tax Department prior to the construction work commencing and/or during the performance of the construction work. Proof of possession of a valid certificate shall be necessary to commence or resume suspended construction work. The certificate of registration may be revoked by the Income Tax Department for failure by the contractor to remain current in the filing of required tax documents, for failure to remain current in the required payment of taxes, and for failure to comply with any section of Chapter 195. Any discrepancy as to amounts of tax due and owing under this paragraph may be assessed at the discretion of the Tax Administrator. (Ord. 2000-130. Passed 4-13-00.)

195.30 DECLARATIONS.

(a) Every person who anticipates any taxable income or who engages in any business, profession, enterprise or activity subject to the tax imposed in Section 195.20 shall file a declaration setting forth the estimated income or the estimated profit or loss from the business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to the City of Stow in accordance with Section 195.26, the person need not file a declaration.

- (b) (1) The declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (c) (1) The declaration shall be filed on a form furnished by, or obtainable from, the Administrator. Credit shall be taken for the City of Stow's income tax to be withheld, if any, from any portion of the income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 195.90.
- (2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(d) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth of the estimated annual tax due after deducting any credits allowable under the provisions of Section 195.90. At least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth month after the beginning of the taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(e) On or before the last 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 the City of Stow shall be paid therewith in accordance with the provisions of Section 195.25. (Ord. 2000-130. Passed 4-13-00.)

195.60 DUTIES OF TAX ADMINISTRATOR.

(a) Duty to Receive Tax and Maintain Records.

- (1) The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, shall keep an accurate record thereof, and shall report all moneys so received.
- (2) The Administrator shall enforce payment of all taxes owing the City of Stow, shall keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration, or file any return, including taxes withheld, and shall show the dates and amounts of payments thereof.

(b) Duty to Make and Enforce Regulations. The Administrator is charged with the enforcement of the provisions of this chapter, and is empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter pertaining to the collection of taxes, disallowance of deductions as provided in subsection (d) hereof, and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns.

(c) Authority to Arrange Installment Payments. The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 195.75, 195.77 and 195.80 shall apply.

(d) Authority to Determine Amount of Tax Due. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due the Administrator may determine the amount of tax appearing to be due the City of Stow from the taxpayer and shall send to the taxpayer a written statement showing the amount of tax so determined, together with the method for determination thereof and the interest and penalties thereon, if any. The burden shall rest on the taxpayer, by timely production of his books and records or otherwise, to substantiate his return and absent such proof, the determination of the Administrator shall be final, subject to the provisions of Section 195.85.

(e) Authority to Abate Penalty and Interest. The Administrator may abate penalty or interest, or both for good cause shown. In cases of tax return discrepancies of five dollars (\$5.00) or less, the Tax Administrator shall have the authority to officially waive collection of such amount(s) when the anticipated cost of collection shall exceed five dollars (\$5.00). (Ord. 2000-130. Passed 4-13-00.)

195.65 INVESTIGATIVE POWERS OF TAX ADMINISTRATOR

(a) Authority to Make Investigations. The Administrator, or any authorized employee, is authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the 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 made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is directed and required to furnish on written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) Authority to Compel Production of Records. The Administrator is authorized to order any person presumed to have knowledge of the facts to appear before him and may examine the person, under oath, concerning any income which was or should have been returned for taxation, or any transaction tending to affect the income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes those persons have knowledge of the income or information pertinent to the inquiry.

(c) Refusal to Produce Records. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject to or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter punishable as provided in Section 195.99.

(d) Confidential Nature of Information Obtained. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, and no disclosure thereof shall be made except for official tax purposes, to municipal, state or federal taxing agencies, or in accordance with proper judicial order.

(e) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.
(Ord. 2000-130. Passed 4-13-00.)

195.70 INTEREST AND PENALTIES.

(a) Interest. All taxes due from taxpayers and all moneys withheld or required to be withheld by employers under the provisions of this chapter remaining unpaid after they have become due and payable shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof until paid in full.

(b) **Penalties.** All taxes due from taxpayers and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they have become due and payable shall be subject to a penalty as follows:

- (1) For failure to pay taxes due, other than taxes withheld, one and one-half percent (1.5%) per month or fraction thereof.
- (2) For failure to remit taxes withheld or required to be withheld, from employee(s), 10% per month or fraction thereof, not to exceed one hundred percent (100%), of the tax amount not paid.

For failure to file a required return, on or before the date due or the date due as extended, the penalty assessed shall be twenty-five dollars (\$25.00).

(c) **Exceptions.** A penalty shall not be assessed on any additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator. In the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal, audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability. (Ord. 2000-130. Passed 4-13-00.)

195.75 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability. (Ord. 2000-130. Passed 4-13-00.)

195.76 REFUNDS.

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

(b) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 2000-130. Passed 4-13-00.)

195.77 LIENS.

(a) If any person liable to pay any tax neglects or refuses to pay the tax after demand, the amount (including any interest, additional amount, addition to the tax or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the City upon all property and rights to property, whether real or personal, belonging to that person. Unless another date is specifically fixed by law, the lien imposed by this section shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of the liability) is satisfied or becomes unenforceable by reason of lapse of time. The Tax Administrator may, on those forms as he may prescribe therefor, cause any lien established herein to be filed on record in the county offices in which the person liable therefor resides, or owns real property, or both.

(b) Subject to those regulations as the Tax Administrator may prescribe, he may issue a certificate of release of any lien imposed with respect to any City tax and cause the lien to be filed on record under the following circumstances;

- (1) The Tax Administrator finds that the liability for the amount assessed, together with all interest in respect thereof, has been fully satisfied or has become legally unenforceable.
- (2) There is furnished to the Tax Administrator and accepted by him a bond that is conditioned upon the payment of the amount assessed, together with all interest in respect thereof, within the time prescribed by law (including any extension of time), and that is in accordance with those requirements relating to terms, conditions and form of the bond and sureties thereon, as may be specified by the regulations.
(Ord. 2000-130. Passed 4-13-00.)

195.80 PROHIBITIONS; PROSECUTION.

(a) No person shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit the withholding to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer on order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof.
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and the City of Stow's tax withheld, or to knowingly give the Administrator false information;
- (11) 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; or
- (12) Fail to timely file any return by due date in accordance with this chapter.
(Ord. 2002-203. Passed 10-24-02.)

(b) All prosecutions under this section or any other provision of this chapter shall be commenced within three years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, or the omission of at least twenty-five percent (25%) of the income required to be reported, in which event the limitation of time within which prosecution must be commenced shall be six years from the date the return was due or the date the false or fraudulent return was filed, or the commission of the offense, whichever is later.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from taking any information return, return or declaration, from filing such form or from paying the tax.
(Ord. 2000-130. Passed 4-13-00.)

195.85 BOARD OF REVIEW.

(a) Board of Review Established. A Board of Review consisting of a chairman and four other individuals, one being an Attorney and one being a Certified Public Accountant or Enrolled Agent, each to be appointed by the Mayor, with the consent of Council, is created. The members shall serve staggered five-year terms. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any members are eligible for reappointment to the Board of Review. No compensation shall be paid to the members until otherwise provided by Council. All members of the Board of Review shall be resident citizens of the City of Stow. Any hearing by the Board shall be conducted privately and the provisions of Section 195.65 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) Duty to Approve Regulations and Hear Appeals. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, shall be approved by the Board of Review before they become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(c) Right to Appeal. Any person dissatisfied with any action, ruling or decision of the Income Tax Administrator, or any member of his/her department, whether made under the auspices of authority conferred by this chapter or otherwise may appeal in writing to the Board of Review within thirty (30) days from the announcement of such action, ruling or decision of the Tax Administrator or any member of his or her department. The Board, having the authority to review such matters, may affirm, reverse or modify any such action, ruling or decision.
(Ord. 2000-130. Passed 4-13-00.)

195.90 CREDIT FOR TAX PAID ANOTHER MUNICIPALITY.

(a) Where a resident of the City of Stow is subject to a municipal income tax in another municipality or in a Joint Economic Development District, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate

(b) Every individual taxpayer who resides in the City of Stow who receives net profit, salaries, wages, commissions or other compensation, and other income from a resident or nonresident business entity or association of which he is a partner or owner, for work done or services performed or rendered outside of the city, if it is made to appear that he or such business entity has paid a municipal or a Joint Economic Development District income tax on or with respect to the same income taxable under this chapter to another municipality or to a Joint Economic Development District, shall be allowed a credit against the tax imposed by this chapter in an amount paid by him, in his behalf or by such business entity, to the other municipality or Joint Economic Development District. In no event, however, shall any municipal income tax or any Joint Economic Development District tax and allowed as a credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. In addition, the credit shall not exceed the tax assessed by this chapter on income earned in such other municipality or municipalities or Joint Economic Development District(s) where the tax is paid.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may by regulation provide. (Ord. 2000-130. Passed 4-13-00.)

195.91 COLLECTION OF TAX AFTER CHAPTER TERMINATION.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until revoked and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter are fully terminated, subject to the limitations contained in Sections 195.75 and 195.80.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 195.25 and 195.26 as though the chapter were continuing. (Ord. 2000-130. Passed 4-13-00.)

195.95 TAXPAYERS' RIGHTS.

The following rights and considerations apply to every taxpayer or potential taxpayer in the City of Stow:

- (a) **Courtesy and Consideration.** As a taxpayer or potential taxpayer, you are entitled to courteous, considerate and fair treatment from Stow Tax Department employees at all times. If you ever feel that you are not being offered such treatment, you should inform the City Tax Administrator. If your complaint is about the Tax Administrator, you should contact the Finance Director, Mayor or the President of Council.
- (b) **Payment of Only the Required Tax.** You are liable only for the correct amount of tax which is due and payable. Equal standards of payment are required to be consistently and fairly applied to all taxpayers.
- (c) **Your Return May Be Questioned.** The City Tax Department reviews all tax returns for correctness. If we inquire about your return or select it for further examination, it does not suggest that you are dishonest or that something is wrong. It only indicates that something needs to be clarified. The examination may or may not result in more taxes being assessed. We may close your case without change to your return or you may receive a refund.
- (d) **Examination and Inquiries by Mail.** The City Tax Office handles most examinations and inquiries by mail. If necessary, we shall send you a letter with either a request for more information or a reason why we believe a change needs to be made in your return. If you provide the requested information or a suitable explanation, a personal interview will probably not be needed. However, you may request a personal interview if you wish or we may schedule a personal interview to review your records.
- (e) **Examination by Interview.** If we request a personal interview to review your records, you may bring your records to the Stow Tax Office and leave them or you may stay while we review and/or copy your records. The amount of time involved will depend upon the volume and orderliness of the records. We will try to schedule your examination at a reasonable time that is convenient for you. However, if the parties are unable to agree, the Stow Tax Department has the authority to make the final determination of how, when and where the examination will take place.

- (f) **Representation.** Throughout your dealings with the Tax Department and its employees, you can represent yourself or your tax preparer or attorney may represent you. Most differences can be settled by presenting additional facts or information. It is not required to have a tax preparer or attorney appear for you. However, if at any time during a tax review you want to consult an attorney or your tax preparer or any other person you wish to represent you, we will stop and reschedule the interview. However, we cannot suspend the interview if you are there because of an administrative summons. In such case, provisions for representation shall be made prior to the start of the interview.
- (g) **Explanation of Additional Tax Liability.** If we suggest or request any changes to your return or tax liability, we shall explain the reasons for the changes or the levy of additional taxes. You should not hesitate to request information or to ask about anything that is unclear to you. Whenever you owe additional taxes, we shall send you a bill stating the reason for the invoice as well as any amounts you may owe, including interest and penalties, if applicable. You have the right to have your bill adjusted if it is incorrect. Please let us know immediately if you believe we have sent you an incorrect bill. If you believe that you are entitled to a refund, file the request with the tax Administrator at the earliest possible date.
- (h) **Interest.** You are liable for interest on additional taxes that you owe, if such taxes were not paid by the appropriate due date. Interest is calculated from the original due date of the payment.
- (i) **An Appeal of the Examination Findings.** If you don't agree with the review or examination findings, you have the right to appeal them. If, within thirty days from the date of the findings, you wish to appeal, you shall state your reasons for such appeal in writing and mail or present such appeal to the Tax Administrator who will schedule a hearing before the Stow Income Tax Board of Review as soon as possible. Most differences can be settled through this appeal system without expensive and time-consuming court trials. If the matter cannot be settled to your satisfaction by the Income Tax Board of Review, you may pursue your case through the court system.
- (j) **Cancellation of Penalties.** You have the right to ask that certain penalties or interest be cancelled (abated) by the Tax Administrator if you can demonstrate reasonable cause for the filing or payment failure that led to the penalty. Interest and penalties are assessed as defined in Section 195.70. The appeal process described in subsection (i) hereof also applies to the assessment of penalties and interest.
- (k) **Payment Arrangements.** You are required by law to make every effort to pay your taxes in full when they are due. If you can't, you should pay as much as you can and contact the Tax Office immediately to attempt to arrange a payment plan. We may ask you for a complete financial statement to determine your ability to pay the amount due. Based on your financial condition, you may qualify for an installment agreement.
If a payment agreement is approved, it shall be prepared in writing for the protection of all concerned. We shall provide you with copies of all agreements you make with the Tax Department. If we approve a payment agreement, the agreement shall stay in effect only if:
- (1) You give correct and complete financial information.
 - (2) You pay each installment on time.
 - (3) You satisfy other Stow tax liabilities on time.
 - (4) You provide current financial information when asked.

- (l) **Enforcement.** The Tax Office ordinarily does not initiate any enforcement action until after we have tried to contact you and offered you the opportunity to voluntarily pay any taxes due. It is very important for you to respond immediately to our attempts to contact you. If you do not respond, we have no choice but to begin formal enforcement proceedings by civil suit or criminal charges. The penalties for violation of the Income Tax Code are defined in Section 195.99.
- (m) **Privacy and Confidentiality.** You have the right to have your personal and financial information kept confidential. According to both state and local law, all such records are required to be kept confidential and may be used only for official purposes.
- (n) **Taxpayer Assistance.** All City tax forms are designed to be self-explanatory. Except for the more complicated tax situations, most taxpayers will not need the assistance of an accountant or attorney to file a tax return. The City Tax Office attempts to provide limited free assistance in preparing tax returns. However, the City is not able to offer unlimited professional advice and can guarantee help only to the extent that the department staff is available to do so.
- (o) **Requests for Information and Documents.** Most general information requested from the Tax Office by a taxpayer shall be made available free of charge. This includes pertinent sections of the City Tax Code. Requests for multiple copies of forms and/or copies of the entire City Tax Code, however, are subject to a nominal fee.
- (p) **Conflicting Provisions.** This section is intended only to clarify and generally delineate taxpayers' rights. The actual application of any provision of this chapter shall be as specifically defined in each section of this chapter. In the event of conflict between this section and any other section or provision of this chapter, such other section or provisions shall take precedence over this section.
(Ord. 2000-130. Passed 4-13-00.)

195.99 PENALTY.

(a) Any person divulging information in violation of this chapter shall be guilty of a first-degree misdemeanor. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City of Stow who violates the provisions of this chapter relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(b) Whoever violates any other provision of this chapter, or any of its sections other than 195.80(a)(12), shall be guilty of a first-degree misdemeanor for each offense. Whoever violates Section 195.80(a)(12) shall be guilty of a minor misdemeanor for each offense.
(Ord. 2002-203. Passed 10-24-02.)