

Title 15- Taxes

TITLE 15. TAXES

Chapter 15.01. Income Tax Rules and Regulations.

Chapter 15.01. Income Tax.

- §15.01.01. Purpose.
- §15.01.02. Definitions.
- §15.01.03. Imposition of tax.
- §15.01.04. Effective period of tax.
- §15.01.05. Mandatory registration.
- §15.01.06. Mandatory filing.
- §15.01.07. Return and payment of tax.
- §15.01.08. Collection at source.
- §15.01.09. Declarations.
- §15.01.10. Duties of the City Auditor.
- §15.01.11. Investigative powers of the City Auditor; penalty for divulging confidential information.
- §15.01.12. Interest and penalties.
- §15.01.13. Collection of unpaid taxes and refunds of overpayment.
- §15.01.14. Violations; penalties.
- §15.01.15. Board of review.
- §15.01.16. Allocation of funds.
- §15.01.17. Saving Clause.
- §15.01.18. Collection of tax after termination of ordinance.

§15.01.01. Purpose.

To provide funds for municipal purposes, there shall be, and is hereby, levied a tax on gross salaries, gross wages, commissions, net gambling and lottery winnings of \$1,000.00 or more, tips, severance packages, rental income, and other compensation, and on net profits and other taxable income as hereinafter provided. 402K and deferred compensation are not deducted under gross salaries or gross wages.

§15.01.02. Definitions.

As used in this Ordinance, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

- A. "City Auditor."
The City Auditor or his duly appointed agent, functioning under the jurisdiction of the City Auditor at all times.
- B. "Association."
A partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- C. "Board of review."
The board created by and constituted as provided in Section 15 of this Ordinance.
- D. "Business."
An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association,

corporation or any other entity. It is intended hereby to specifically include the renting or leasing of property--real, personal or mixed.

E. "Corporation."

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."

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

G. "Employer."

An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage commission or other compensation basis.

H. "Fiscal year."

An accounting period of twelve (12) months or less ending on any day other than December 31.

I. "Gross receipts."

The total income of taxpayers from whatever source derived.

J. "Net profit."

The net gain from the operation of a business, profession, or enterprise or other activity whether or not such business, profession enterprise or other activity is conducted for profit or is ordinarily conducted for profit, after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deductions of taxes imposed by this Ordinance, Federal States or other tax based on income; and in the case of an association, without deduction of salaries paid partners, and other owners; and otherwise adjusted to the requirements of this Ordinance.

K. "Non-resident."

An individual who is not domiciled in the City of Nelsonville, Ohio.

L. "Non-resident unincorporated business entity."

An unincorporated business entity not having an office or place of business within the City of Nelsonville, Ohio.

M. "Person."

Every natural person, partnership, fiduciary, association or corporation or other entity. Wherever used in any clause prescribing and imposing a penalty, the term "person", as applied to any association, shall include the partners or members thereof, and as applied to corporations, the officers thereof.

N. "Place of business."

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

O. "Resident."

An individual domiciled in the City of Nelsonville, Ohio.

P. "Taxable income."

Gross Wages, gross salaries and other compensation paid by an employer or employers before any deduction, commissions, net gambling and lottery winnings of \$1,000.00 or more, tips, severance packages, rental income derived within the City, and other income defined by statute as taxable, and/or net profit from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the Ordinance.

Q. "Taxable year"

The calendar year, or fiscal year upon the basis of which net profits are to be computed under the Ordinance and, in the case of a return for a fractional part of the year, the period for which such return is required to be made.

R. "Taxpayer"

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

S. "Other Entity"

Any person or unincorporated body not previously named.

The singular shall include the plural, and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of first and last mentioned dates.

§15.01.03. Imposition of tax.

A. Subject to the provisions of Section §15.01.18 of this Ordinance, an annual tax for the purposes specified in Section §15.01.01 hereof shall be imposed on and after January 1, 2003 at the rate of 1.75% per annum, upon the following:

B. Resident Employee:

(1) The following are items which are subject to the tax imposed by this Ordinance:

(a) On all salaries, wages, commissions, gambling and lottery winnings of \$1,000.00 or more, 401K, deferred compensation, tips, severance packages, rental income and other compensation earned by residents of the City of Nelsonville, Ohio.

(i) Amounts received from an employer for expenses and uses as such by the individual receiving them are not deemed to be compensation if the employer deducts such expenses or advances as such from his gross income for the purpose of determining his net profits taxable under Federal law, and the employee is not required to include such receipts as income on his Federal Income Tax return.

(ii) Fees, unless such fees are properly includable as part of the net profits of a trade, business, profession or enterprise regularly carried on by an unincorporated entity owned or partly owned by an individual.

(iii) Other compensation, including bonuses, and including compensation paid to domestic servants, casual employees and other types of employees.

(iv) Payments made to employees by an employer as vacation wages are taxable. Payments made to an employee by an employer under a way continuation plan during periods of disability, third party sick pay, or sickness, are taxable.

(2) On the portion attributable to the City of Nelsonville, Ohio of the net profits earned by all resident unincorporated business, pass through entities, professions or other activities derived from work done or services performed or rendered, and business or other activities conducted in the City of Nelsonville. On the portion of the distributive share of the net profits of a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity not attributable to the City of Nelsonville, Ohio and not levied against such unincorporated business entity or pass-through entity.

(3) On the portion attributable to the City of Nelsonville, Ohio on the net profits by all non-resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City of Nelsonville. On the portion of the distributive share of the net profits earned by a non-resident unincorporated business entity not attributable to the City of Nelsonville, Ohio and not levied against such unincorporated business entity or pass-through entity.

(4) On the portion attributable to the City of Nelsonville, Ohio of the net profits earned by all corporations that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the City of Nelsonville, Ohio, whether or not such corporations have an office or place of business in the City of Nelsonville, Ohio.

(5) However, the net amount upon which the tax due is to be calculated may not be less than zero.

(a) One example would be the case of combining employee wages earned with rental or business income loss. In this example, the rental or business loss could not be an amount less than zero for tax computation purposes.

C. Non-Resident Employee:

In the case of individuals who are not residents of the City of Nelsonville, Ohio there is imposed tax of 1.75% on all salaries, wages, commissions, 401K, deferred compensation, tips, severance packages, or rental income derived from within the City, and other compensation earned by non-residents for work done, or services performed or rendered, in the City of Nelsonville, Ohio. The location of the place from which payment is made is immaterial.

D. Businesses both in and outside the City of Nelsonville, Ohio Boundaries.

Where a person conducts a business both within and outside the City of Nelsonville, Ohio the portion of the entire net profits of such business to be allocated as having been made within the City of Nelsonville, Ohio may be determined from the records of such business, if such business has bona

bona fide records which disclose with reasonable accuracy what portion of its net profits is attributable to that part of its activities conducted within the City of Nelsonville, Ohio or at the option of the taxpayer has no bona fide records showing net profits from business activities within the City of Nelsonville, Ohio:

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

(a) Ascertaining the percentage which the average value net book value of the real and tangible personal property owned or used in the business and situated within the City, during the period covered by the return is of the average net book value of all the real and tangible personal property owned or used in the business, wherever situated during such period.

(b) Ascertaining the percentage which gross receipts of the business from sales made and services performed in the City of Nelsonville, Ohio during the period covered by the return, are of the total gross receipts from all sales and services, wherever made or performed, during such period.

(c) Ascertaining the percentage which the total wages, salaries, commissions and other compensation paid, during the period covered by the return, to employees for services performed in the City of Nelsonville, Ohio is of the total wages, salaries, commissions and other compensation paid during such period to all employees within and outside the City of Nelsonville, Ohio.

(d) Adding together the percentages determined in accordance with subparagraphs D (1) (a) and (c) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total s obtained by the number of percentages uses in deriving such total.

(i) A factor is applicable even though it may be allocable entirely in or outside the City of Nelsonville, Ohio.

(ii) Provided however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the City Auditor, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect proper allocation. Should the taxpayer object to or disagree with the City Auditor's decision, an appeal may be filed with the Board of Review, which shall have the power to adjust, notify, or overrule such decision, by the City Auditor.

E. Net Operating loss:

There shall be no net carry forwards or backwards allowed.

F. Exemptions:

The provisions of this Ordinance shall be construed as levying a tax upon the following:

(1) Funds received from Local, State, or Federal governments because of service in the Armed Forces of the United States by the person rendering such service, or as a result of another person rendering such service.

(2) Poor relief, pensions, unemployment

compensation or similar payments, including disability benefits received from private industry or Local, State or Federal governments, or from charitable, religious or educational.

(3) 401K and deferred compensation at time of receipt.

(4) Jury duty compensation.

(5) Alimony received.

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

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

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

(9) Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations, items of income taxed by the intangible personal property laws of the State of Ohio, or specifically exempt from taxation under said law, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(10) Earnings and income of all persons under 18 years of age whether residents or nonresidents.

(11) Interest and dividends earned.

§15.01.04. Effective period of tax.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and with respect to the net profits of businesses, professions or other activities earned from January 1, 2003.

§15.01.05. Mandatory registration.

A. Each new resident of the City of Nelsonville, Ohio shall register with the City Auditor to become subject to the City Income Tax within thirty (30) days of residence of the City. Any person who violates this subsection shall be subject to a fine of five dollars (\$5.00) a day for each and every day they remain in violation, up to a maximum of one hundred dollars (\$100.00).

B. All employers, contractors or subcontractors who do work in the City of Nelsonville, Ohio within thirty (30) days of beginning that work, shall register with the City Auditor and shall present him a list of all employees. Subcontractors, contractors or others who may do work for them whose profits, wages, or earnings are not presently subject to withholding of the Nelsonville City income tax. Any person, employer, contractor, or subcontractor who violates this subsection shall be subject to a fine of five dollars (\$5.00) a day for each and every day they remain in violation, up to a maximum of three hundred dollars (\$300.00).

§15.01.06. Mandatory filing.

All persons residing or doing business within the City of Nelsonville, Ohio shall file a tax return on a form prescribed by the City Auditor for the collection of the City Income Tax. Any resident that does not have income subject to the City of Nelsonville income tax, may file an exempt form available from the City Auditor. Any person who fails to make and/or file a return when due shall be subject to a late filing penalty of five dollars (\$5.00) per day for each and every day they remain in violation up to a maximum of three hundred dollars (\$300.00).

In addition to the late filing penalty, any return that remains not filed more than sixty-days after its due date shall be subject to the penalties provided under Section §15.01.14. The City Auditor shall have the right to waive such penalties for cause.

§15.01.07. Return and payment of tax.

A. Each taxpayer, except as herein shall, whether or not a tax is due thereon, make and file a final return on or before April 15th of the year following the effective date of this Ordinance, and on or before April 15th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within 105 days from the end of such fiscal year or period.

B. The return shall be filed with the City Auditor on a form or forms furnished by or obtainable upon request from the City Auditor setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and net profits from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax.

(2) The amount of the tax imposed by this Ordinance on such earnings and profits.

(3) All amounts may be rounded up or down as customary, to the nearest whole dollar.

(4) Final amounts due for amounts less than \$1.00 need not be remitted.

(5) Such other pertinent statements, information, returns or other information as the City Auditor may require.

(6) Trustees of active trusts are required to file returns and pay the tax on the taxable income thereof.

(7) A husband and wife may file a joint return.

(8) Where figures of total income, total deductions, and net profits are included, as shown by a federal return, any items of income as are not subject to City of Nelsonville tax and unallowable expenses shall be eliminated in determining net income subject to City of Nelsonville tax.

(9) The fact that any taxpayer is not required to file a federal return does not relieve him from filing a City of Nelsonville tax return.

(10) If a change in federal income tax liability, made by the Federal Internal Revenue Service, or by a judicial decision, results in an additional amount of tax

payable to the City of Nelsonville, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice from the Federal Internal Revenue Service or final Court decision.

(11) If a change in federal income tax liability results in a reduction of taxes owed and paid to the City of Nelsonville, a claim for refund shall be filed with the City Auditor, in writing, within three (3) years.

C. Extensions:

(1) The City Auditor may extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The City Auditor 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 or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(2) Information, returns, W-2's, schedules and statements needed to support tax returns are to be filed within the time limits set forth for filing the tax return.

D. Other Information:

(1) The taxpayer making a return shall, at the time of the filing thereof, pay to the City Auditor the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section §15.01.08 of the Ordinance, so where any portion of said tax shall have been paid by the taxpayer, pursuant to the provisions of Section §15.01.07 of this Ordinance, or where an income tax has been paid to another municipality, 1% tax credit commencing January 1, 2014, for the 2013 taxable year, and a .5% tax credit commencing January 1, 2015, for 2014 taxable year, for the amount so paid in accordance with Section §15.01.17, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

(2) A taxpayer who has overpaid the amount of tax to which the City of Nelsonville, Ohio is entitled under the provisions of this Ordinance may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof shall be refunded.

(a) No refund or credit request amounting to less than \$5.00 will be processed.

(b) All applications for refund shall be made within six (6) months of the due date of the final return or shall be forever barred there after.

E. Amended returns:

(1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections §15.01.11 and §15.01.15. Such amended returns shall be on a form obtainable on request from the City Auditor. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's City of Nelsonville, Ohio tax liability, the taxpayer shall make and file an amended City of Nelsonville, Ohio return showing income subject to the City of Nelsonville, Ohio tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

§15.01.08. Collection at source.

A. Each employer within or doing business within the City of Nelsonville, Ohio shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of 1.75% of the gross salaries, wages, commissions or compensation due by the said employer to said employee.

(1) If the average monthly payroll deduction of the City Income Tax is less than \$100.00 a month, the employer shall, on or before the last day of the month following the close of each calendar quarter make a return and pay the City Auditor the amount of taxes so deducted.

(2) If the average monthly payroll deduction of the City Income Tax is \$100.00 a month or more, the employer shall be required to file withholding returns and pay the monthly collections on or before the last day of the month following the month of collection.

(3) The City Auditor may change the filing schedule when the Auditor deems the change necessary to ensure the proper and timely collection of monies due to the City.

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

§15.01.09. Declarations.

A. Every person who anticipates any taxable income which is not subject to Section §15.01.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section §15.01.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon.

(1) If however, a person's income is wholly from wages from which the tax will be withheld and remitted to the City of Nelsonville, Ohio in accordance with Section §15.01.06, such person need not file a declaration.

B.

(1) The declaration shall be filed on or before April 15th of each year during the life of this Ordinance or within three (3) 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 105 days after the beginning of each fiscal year or period.

C.

(1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Tax Auditor provided, however, that credit shall be taken for the City of Nelsonville, Ohio tax to be withheld from any portion of the income. In accordance with the provisions of Section §15.01.17 hereof, 50% credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

D. In the event that the estimated annual tax due is equal to or greater than \$100, such declaration of estimated tax shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(1) Provided, however, that in case an amended declaration has been filed; the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed, and any balance which may be due the City of Nelsonville, Ohio shall be paid therewith in accordance with the provisions of Section §15.01.05 hereof.

§15.01.10. Duties of the City Auditor.

A. It shall be the duty of the City Auditor to receive the tax imposed by this Ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received to the City Treasurer.

B. It shall be the duty of the City Auditor to collect payment of all taxes owing the City of Nelsonville, Ohio, to keep accurate records for the minimum of six (6) years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

C. Said City Auditor hereby charges with the enforcement of the provisions of the Ordinance, and s hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provision of this ordinance, including provisions for the reexamination and correction of returns.

D. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the City Auditor may determine the amount of tax appearing to be due to the City of Nelsonville, Ohio from the taxpayer and send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

E. The City Auditor 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 City Auditor that, due to certain hardship conditions, he is unable to pay the full amount of the tax due.

(1) Such authorization shall not be granted until the taxpayer files proper returns for all amounts owed by him under the Section.

(2) The City Auditor is also authorized to waive any fines or penalties for cause.

§15.01.11. Investigative powers of the administrator; penalty for divulging confidential information.

A. The City Auditor, or any authorized employee, or agent of the City Auditor is hereby 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 City Auditor believes is subject to the provisions of this Ordinance, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this Ordinance.

(1) Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request by the City Auditor, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

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

C. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the City Auditor authorized hereby shall be deemed a violation of the Ordinance, punishable as provided in Section §15.01.12 and §15.01.14.

D. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this Ordinance shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

E. In addition to the above penalty, any employee of the City of Nelsonville, Ohio who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

F. Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the withholding taxes are paid.

§15.01.12. Interest and penalties.

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this Ordinance and remaining unpaid five (5) days after they become due shall bear interest at the rate of one and eight percent (8%) per annum or fraction thereof. Interest due shall be calculated for each month or portion of month that tax due has not been paid.

B. In addition to interest as provided in Paragraph (A) hereof, penalties based on the unpaid tax are hereby imposed as follows:

(1) Failure of an employer to file withholding and/or reconciliation reports as required on or before the due date, twenty-five dollars (\$25.00).

(2) Failure of an individual, business, corporation or other entity to file declarations and/or statements on or before the due date, twenty-five dollars (\$25.00).

(3) Failure to pay taxes due, other than taxes withheld, one and one half percent (1 ½%) per month or fraction thereof, or twenty-five dollars (\$25.00).

(4) Failure to remit taxes withheld from employees, three percent (3%) per month or fraction thereof, or twenty-five dollars (\$25.00), whichever is greater.

(5) Where the taxpayer has failed to file a return by the due date resulting from an extension, twenty-five dollars (\$25.00).

(6) Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) or the actual tax for the year and the amount paid through withholding and declaration.

(7) Except with the case of fraud, the penalty shall not exceed fifty percent (50%) of the unpaid tax.

C. Exceptions:

A penalty shall not be assessed on an additional tax assessment made by the City Auditor when a return has been filed in good faith and the tax paid thereon within the time prescribed by the City Auditor; and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the Federal tax liability.

§15.01.13. Collection of unpaid taxes and refunds of overpayment.

A. All taxes imposed by this Ordinance 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 income, subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later; provided, however, in those cases in which the Commissioner of the 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 City Auditor shall be one (1) year from the time of the final determination of the Federal tax liability, whichever is later.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made, in writing, to the City Auditor within six (6) months from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

§15.01.14. Violations; penalties.

A. Any person, firm or corporation who shall:

(1) Fail, neglect or refuse to make any return, questionnaire or declaration required by this Ordinance;

(2) Make any incomplete, false or fraudulent return;

(3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Ordinance;

(4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the City Auditor;

(5) Refuse to permit the City Auditor 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;

(6) Fail to appear before the City Auditor and to produce his or her employer's books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon subpoena of the City Auditor;

(7) Refuse to disclose to the City Auditor any information with respect to the income or net profits of a taxpayer;

(8) Fail to comply with the provisions of this Ordinance or any order or subpoena of the City Auditor authorized hereby;

(9) Give to the employer false information as to his true name, correct social security number or residence address or fail to promptly notify an employer of any change in residence address and date thereof;

(10) Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and City of Nelsonville tax withheld, or to knowingly give the City Auditor false information;

(11) Fail to comply with the provisions of this Ordinance or any order or subpoena of the City Auditor;

(12) Fail to refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section §15.01.07;

(13) Fail to cause the tax withheld from the wages of the employees pursuant to this Ordinance to be paid to the City of Nelsonville, Ohio in accordance with the provisions of Section §15.01.08; or

(14) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter;

Shall be guilty of a misdemeanor and shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than sixty (60) days or both, for each offense.

B. All prosecutions under this Section must be commenced within three (3) 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, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.

C. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.

§15.01.15. Board of review.

A. A Board of Review, consisting of three (3) electors of the City, one to be appointed by the City Manager, one to be appointed by the City Auditor, and the third to be selected by the City Attorney, is created by this Ordinance. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

B. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

C. All hearings of the Board shall be conducted privately and the provisions of Section §15.01.11 of the Ordinance with reference to the confidential character of information required to be disclosed by the Ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

D. Any person dissatisfied with any ruling or decision of the City Auditor that is made under the authority conferred by the Ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the City Auditor. The Board of Review shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board of Review shall issue their decision within ninety (90) days from the date when the written notice of appeal is received. Any person dissatisfied with the ruling of the City Auditor and appealing to the Board of Review shall cause notice in writing to be served upon the City Auditor by ordinary U.S. mail within three (3) days after notifying the Board of Review of intent to appeal.

§15.01.16. Allocation of funds.

The funds collected under the provisions of this Ordinance shall be disbursed in the following order, to wit:

(1) The balance of any monies collected under the provisions of this Ordinance shall be allocated in such manner as prescribed by Ordinances adopted by the Council of the City of Nelsonville, Ohio.

§15.01.17. Saving clause.

If any sentence, clause, Section or part of this Ordinance, 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 Ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Ordinance. It is hereby declared to be the intention of the Council of the City of Nelsonville, Ohio that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§15.01.18. Collection of tax after termination of ordinance.

A. This Ordinance shall continue effective insofar as the levy of taxes is concerned until Repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax levied or enforcing any provisions of this Ordinance are concerned. It shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this Ordinance shall have been fully terminated, subject to the limitations contained in Section §15.01.13 and Section §15.01.14.

B. Annual returns due for all or any part of the last effective year of this Ordinance shall be due on the date provided in Sections §15.01.07 and §15.01.08 of this Ordinance as though the same were continuing.