

SECTION 9. INVESTIGATIVE POWERS OF THE ADMINISTRATOR—PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Administrator, or any authorized employee, 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 Administrator 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. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon 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. The Administrator 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 reported 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 Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by the ordinance or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of Five Hundred Dollars (\$500.00) or imprisonment for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

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

E. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

SECTION 10. INTEREST AND PENALTIES.

A. All taxes imposed and all money withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of eight percent (8%) per annum or fraction thereof, or the sum of Five Dollars (\$5.00) whichever is greater.

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

1. For failure to pay taxes due—other than taxes withheld; one and one-half percent (1½%) per month or fraction thereof, or the sum of Five Dollars (\$5.00) whichever is greater.

2. For failure to remit taxes withheld from employees; five percent (5%) per month or fraction thereof, or the sum of Five Dollars (\$5.00) whichever is greater.

C. EXCEPTIONS. A penalty shall not be assessed on an 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; 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.

D. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both.

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

B. Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in Division A of this section.

C. Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

SECTION 12. VIOLATIONS—PENALTIES.

A. Any person who shall:

1. Fail, neglect or refuse to make any return required by this ordinance; or

2. Make any incomplete, false or fraudulent return; or

3. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

4. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; 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 upon 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 ordinance 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; or

10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this municipality's income tax withheld, or to knowingly give the Administrator false information; or

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 ordinance;

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both for each offense.

B. Prosecutions for an offense made punishable under this Section or any other provision of this ordinance shall be commenced within three (3) 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 (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

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.