

ARTICLE XI  
COLLECTION OF UNPAID TAXES AND  
REFUND OF OVERPAYMENTS

A. Unpaid Sums – Civil Suit

1. In addition to any criminal penalties which may be imposed pursuant to Chapter 1715 of the ordinance, all taxes imposed by Chapter 1705 of the ordinance and not paid when due, shall be collectable, together with any interest and penalties thereon, by civil or criminal suit. Employers who are required under Chapter 1713 of the ordinance, to withhold and remit the taxes required to be withheld at the source, and who fail to withhold and/or remit, become liable to the City of Brook Park in a civil or criminal suit to enforce the payment of the deficiency created by such failure. No change in structure by an employer, including a fundamental change, discharges its managers from the liabilities imposed by this subsection.

2. No additional assessment shall be made by the Director of the Department of Taxation after three (3) years from the time the return was due or filed, whichever is later. Provided, however, there shall be no period of limitation on such additional assessments in case of a return that omits a substantial portion of income, or filing a false or fraudulent return to evade payment of the tax, or failure to file a return. Failure to report twenty-five percent (25%) or more of income required to be reported shall be considered a substantial omission.

3. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an assessment may be made by the Director of the Department of Taxation is extended to (1) year from the time of final determination of federal tax liability.

B. Refunds and Overpayments

1. Taxes erroneously paid shall not be refunded unless claim for refund is made within three (3) years from the time of payment thereof, or within three (3) months after final determination of the federal tax audit.

Federal adjustment must have a direct effect on items subject to city tax to extend the statute.

Based on the three (3) year statute of limitations, taxpayers required to file an annual return use April 30<sup>th</sup> as due date of the return. Taxpayers not required to file a return other than a request for refund use January 31<sup>st</sup> as due date of return. The year following the year for which the refund is requested shall be considered as the first year. Effective with tax years beginning January 1, 2004 and thereafter, taxpayers required to file a return use a due date three and one-half months after the close of the annual or fiscal year.

2. No refund shall be made to any taxpayer until he has complied with all provisions of the ordinance and has furnished all information required by the Director of the Department of Taxation.

3. Overpayments of any year's taxes shall be applied as follows:

- a. To taxes owed for any previous years in the order in which such taxes become due.
- b. To taxes owed for the current or any previous year on the taxpayer's associated accounts.
- c. To his current estimated tax liability.

No refunds are allowable when there is an existing liability and/or delinquency on any of the taxpayer's associated tax accounts.

Overpayments of less than forty dollars (\$40.00) shall not be refunded but shall be applied against liability in the subsequent year when it is evident that a liability will exist in the subsequent year.

Nonresident individuals claiming a refund must sign a City of Brook Park disclosure form and provide proof of payment to another municipal taxing authority before receiving refunds.

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C. Limitation

At the time of filing if the amount due or refund claimed for the respective tax year is less than five dollars (\$5.00) such amount shall not be collected or refunded. Upon an account's accumulative balance exceeding the five dollar (\$5.00) limitation the balance becomes collectable and the overpayments subject to refund within the statutory provisions.