

CHAPTER 181
Income Tax

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CROSS REFERENCES

- Payroll deductions - see Ohio R.C. 9.42
- Municipal income tax - see Ohio R.C. Ch. 718
- State income tax - see Ohio R.C. Ch. 5747.

181.01 PURPOSE.

To provide funds for the purposes of general municipal functions of the Municipality there shall be levied a tax on all salaries, wages, commissions, and other compensations, and on net profits, as hereinafter provided.

181.02 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively.

- (a) "Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the Municipal income tax.

(b) “Association” means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

(c) “Board of Review” means the Board created by and constituted as provided in Section 181.14.

(d) “Business” means any 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, excluding, however, all nonprofit corporations which are exempt from the payment of federal income tax.

(e) “Corporation” means a corporation or joint stock association organized under the laws of the United States, the State, or any other state, territory, or foreign country or dependency.

(f) “Employee” means one who works for a wage, salary, commission or other type of compensation in the service of any employer.

(g) “Employer” means an individual, partnership, association, corporation, government 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 basis of compensation.

(h) “Fiscal year” means an accounting period of twelve months or less ending on any day other than December 31.

(i) “Fundamental change” means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganization such as merger, consolidation, acquisition, transfer, or change in identity, form or organization.

(j) “Gross receipts” means the total income from any source whatever.

(k) “Manager” means any of the employer’s officers, responsible persons, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with this chapter.

(l) “Net profits” means a net gain from the operation of a business, profession, enterprise, or other activity after provisions 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 deduction of taxes imposed by this section, federal, state and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.

(m) “Nonresident” means an individual domiciled outside the Municipal limits.

(n) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the Municipality.

(o) “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 regular employees regularly in attendance.

(p) “Qualifying wages” means wages as defined in Internal Revenue Code Section 3121(a), without regard to any wage limitation. Generally, qualifying wages are reported in the Medicare Wage box of Federal Form W-2. In addition, income from Supplemental Unemployment payments (SUB-Pay) and exercise of stock options must be added to the income reported in the Medicare Wage box. This total should then be reported in the Municipal Wage box and the appropriate tax withheld. All income deferred into any qualified or non-qualified plan is subject to withholding in the year of deferral. IRC Section 125 wages (“cafeteria plans”) are not included in the definition of Medicare wages and should not be deducted from the Medicare Wage box. Medicare Exempt Employees are subject to the requirements for “qualifying wages” in the Medicare Wage box even though that box will remain blank.

(q) “Resident” means an individual domiciled in the Municipality.

(r) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the Municipality.

(s) “Taxable income” means wages, salaries, commissions, other compensation including fees, sick pay, bonuses, tips, rents, profits from businesses, including professional associations and partnerships, royalties, employer supplemental, unemployment benefits (subpay), wage continuation plans, contest prizes and awards, dismissed or severance pay, incentive payment property in lieu of cash, depreciation recapture and other compensation earned, received and accrued. Your contribution to 401K retirement plans, annuities or Independent Retirement Plans (IRA’s) and all deferred compensation plans ARE taxed by municipalities. The term “other compensation” including, but not limited to income earned or derived from gaming, wagering, lotteries, including the Ohio state lottery, or schemes of chance, all of which shall not be taxed as business income.

(t) “Taxable year” means the calendar year, or the fiscal year upon the basis of 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 the return is required to be made.

(u) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

(Ord. 2004-14. Passed 2-18-04.)

181.03 IMPOSITION OF TAX.

An annual tax for the purposes specified in Section 181.01 shall be imposed on and after January 1, 2010, upon the following items of income, at the rate of two and one-half percent (2.5%):

(a) On all salaries, wages, commissions and other compensation earned on and after January 1, 2010, by residents of the Municipality;

(b) On all salaries, wages, commissions and other compensation earned on and after January 1, 2010, by nonresidents of the Municipality for work done or services performed or rendered within the Municipality;

(c) On all salaries, wages, commissions and other compensation earned on and after January 1, 2010, for work done or services performed or rendered by employees of the Village who are not otherwise subject to the provisions of this chapter;

(d) On the portion attributable to the Municipality on the net profits earned on and after January 1, 2010, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality;

(e) On the portion of the distributive share of the net profits earned on and after January 1, 2010, of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality;

(f) On the portion attributable to the Municipality of the net profits earned on or after January 1, 2010, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality;

(g) On the portion of the distributive share of the net profits earned on and after January 1, 2010, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality; and

(h) On the portion attributable to the Municipality of the net profits earned on and after January 1, 2010, of all corporations, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
(Ord. 1991-22. Passed 4-17-91; Ord. 2009-38. Passed 8-5-09.)

181.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on and after September 1, 1991. (Ord. 1991-22. Passed 4-17-91.)

181.05 ALLOCATION OF TAX.

(a) In the taxation of income which is subject to the Municipal income tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Municipality 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 Municipality, then only that portion shall be considered as having a taxable situs in the Municipality for the purposes of Municipal income taxation, The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Municipality, in the absence of actual records thereof, shall be determined as follows: Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll, and sales, each of which shall be given equal weight, as follows:

(1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Municipal limits during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in this subsection, real property shall include property rented or leased by the taxpayer, and the value of the property shall be determined by multiplying the annual rental thereon by eight.

(2) Wages, salaries and other compensations paid during the taxable period to persons employed in the business or profession for services performed in the Municipal limits to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession wherever their services are performed.

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

(b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce the result.

(c) As used in subsection (a) (3) hereof, "sales made in the Municipality" means:

(1) All sales of tangible personal property which is delivered within the Municipal limits, regardless of where title passes, if shipped or delivered from a stock of goods within the Municipality.

(2) All sales of tangible personal property which is delivered within the Municipality, regardless of where title passes, even though transported from a point outside the Municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality, and the sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the Municipality to purchasers outside of the Municipality, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(d) (1) Add together the percentage determined in accordance with subsection (a)(1), (2) and (3), or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving the total, in order to obtain the business allocation percentage referred to above.

(2) A factor is applicable even though it may be allocable entirely in or outside the Municipal limits.
(Ord. 1967-02. Passed 5-17-67.)

(e) (1) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 181.01 (c), (d) and (e), only if and to the extent that the rental ownership, management, or operations of real estate from which the rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(2) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima facie evidence that the rental, ownership, management, or operation of the properties is a business activity of the taxpayer, and the net income of the rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts, or profits of the lessee, whether or not the rental exceeds one hundred twenty-five dollars (\$125.00) per month. In the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds the one hundred twenty-five dollars (\$125.00) per month. A person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.

(3) Property owners who are considered to have a business activity under the provisions of this section shall submit or cause to be submitted to the administrator a list of names and addresses of all persons, firms, corporations, or other entities occupying, leasing, or renting any premises belonging to the property owner within this Municipality. The required list shall be prepared as of December 31, of each year and submitted on or before January 31, of the following year.

(Ord. 1972-25. Passed 5-17-72.)

(f) (1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the Municipality may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(3) The administrator shall provide by rules and regulations the manner in which the net operating-loss carry-forward shall be determined.

(Ord. 1967-02. Passed 5-17-67.)

(g) (1) Royalty income. Income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer. Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000), it shall be prima- facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

(2) Employer's income. The employer's income derived from finance and carrying charges associated with his customers' accounts receivable shall also be included in the computation of net profits.

(h) (1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the Municipality may be applied against the portion of the profit of succeeding tax years allocable to the Municipality until exhausted, but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

(3) The administrator shall provide by rules and regulations the manner in which the net operating-loss carry-forward shall be determined.
(Ord. 1990-40. Passed 5-16-90.)

181.06 EXEMPTIONS.

The tax provided for herein shall not be levied on the following:

(a) Pay or allowance of active members of the Armed Forces of the United States, or the income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that the income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, of tax-exempt activities.

(b) Poor relief, unemployment insurance benefits, old age pensions, or similar payments, including disability benefits received from local, state, or federal governments, or charitable, religious, or educational organizations.

- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities, or gratuities not in the nature of compensation for services rendered, from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sports events, and health and welfare activities, when any such are conducted by bona fide charitable, religious, or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property, by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by this State which the Municipality is specifically prohibited from taxing, and income of a decedent's estate during the period of administration except the income from the operation of a business.
- (j) Salaries, wages, commissions, and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the States or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions, and other compensation and net profits, the taxation of which is prohibited by the State constitution or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.
(Ord. 1967-02. Passed 5-17-67.)

181.07 RETURN AND PAYMENT OF TAX.

- (a) Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 30, of the year following the effective date of this chapter and on or before April 30, 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 four months from the end of that fiscal year or period.
- (b) The return shall be filed with the administrator on forms furnished by or obtainable upon request from the administrator, setting forth:

(1) The aggregate amounts of salaries, wages, commissions, and other compensation earned, and gross income from businesses, professions, or other activities, less allowable expense incurred in the acquisition of the gross income earned during the preceding year and subject to the tax;

(2) The amount of the tax imposed by the section on the earnings and profits; and

(3) Such other pertinent statements, information returns, or other information as the administrator may require.

(c) The administrator may extend the time for filing of the annual return upon the request of the taxpayer, for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the federal income tax return. The administrator may require as tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is 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.

(d) (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the administrator.

(2) In the case of a corporation that carried 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 Municipal limits 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 Municipality. If the administrator finds that net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with the division, branch, factory, office, laboratory, or activity, or by some other method, he shall make the allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Municipality.

(e) (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, limitations, or both, contained in Sections 181.10 and 181.11. The amended return shall be on a form obtainable on request from the administrator. 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 months from the final determination of any federal tax liability affecting the taxpayer's Municipal tax liability, the taxpayer shall make and file an amended Municipal return showing income subject to the Municipal tax based upon the final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(Ord. 1967-02. Passed 5-17-67.)

181.08 PAYMENT OF TAX.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the administrator the amount of taxes shown as due thereon; however, where:

(1) Any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.09;

(2) Any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.10(a); or

(3) An income tax has been paid on the same income to another Municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 181.11(c), 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 the return.

(b) A taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this section may have this overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, the overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
(Ord. 1967-02. Passed 5- 17-67.)

181.09 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of the salary, wages, commission, or other compensation, the tax of two and one-half percent (2½%) per annum of the gross salaries, wages, commissions, or other compensation due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted

until the last day of the month following the end of the calendar quarter in which that month occurred.

(Ord. 1992-18. Passed 3-18-92; Ord. 2009-38. Passed 8-5-09.)

(b) The returns shall be on a form or forms prescribed by or acceptable to the administrator and shall be subject to the rules and regulations prescribed therefor by the administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not the taxes have, in fact, been withheld.

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

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

(e) Manager's Obligation.

(1) Every manger is deemed to be a trustee of the Municipality 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 Municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the Municipality whether or not the employer actually remits the tax to the Municipality for purposes of determining employee payments or credits.

(2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, 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 by an employer, including a fundamental change, discharges its managers from liability for the employee's or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

(Ord. 1990-40. Passed 5-16-90.)

181.10 DECLARATIONS .

(a) Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the Municipality, less tax credit allowed in Section 181.11, unless the taxpayer anticipates that the tax will be fully withheld within the Municipality, and any income earned outside the Municipality will be fully taxed at the same rate or higher rate in another Municipality. If the estimated tax for the current year, less the tax to be withheld and unless the tax credit amounts to not more than ten dollars (\$10.00) no declaration or payment of estimated tax is required.

(b) (1) The declaration required by subsection (a) hereof, shall be filed on or before April 30, of each year during the effective period set forth in Section 181.04 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 required by subsection (a) hereof shall be filed upon a form furnished by or obtained from the administrator. As provided in subsection (a) hereof, credit shall be taken for municipal tax to be withheld from any portion of the income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of subsection (a) hereof.

(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 declaration of estimated tax to be paid to the Municipality shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. However, 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 date.

(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 Municipality shall be paid therewith in accordance with the provisions of Section 181.08. However, any taxpayer may file, on or before the last day of the first month of the year following that for which the declaration or amended declaration was filed, an annual return, and pay any balance due at the time in lieu of filing the declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.
(Ord. 1967-02. Passed 5-17-67.)

181.11 COLLECTION OF UNPAID TAXES; REFUNDS.

(a) 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, or omission of a substantial portion of income subject to this tax, or of 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 limitations, 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.

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

(c) Amounts less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 1967-02. Passed 5-17-67.)

181.12 TAX CREDIT.

(a) As a result of passage of Village of Woodmere Ballot Issue No. 102 which passed at the November 3, 2009 election and became effective on January 1, 2010, the Village Income Tax Rate was raised to a rate of 2.5%. In addition, the credit for Village residents who pay municipal income tax elsewhere was increased to one-hundred percent (100%) up to the tax credit rate limit of 2.5%. For the purposes of this section taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.
(Ord. 1980-27. Passed 6-19-80; Ord. 2009-38. Passed 8-5-09.)

(b) A claim for credit or refund under this section shall be made in such manner as the administrator may by regulation provide. In the event the Municipal resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the administrator, he shall not be entitled to the credit or refund and shall be considered in violation of this chapter for failure to file a return.

(c) Claims for credit for taxes paid another municipality shall be handled solely in accord with reciprocity agreements between municipalities. For a claim for refund of taxes erroneously paid see Section 181.10(b).
(Ord. 1967-02. Passed 5-17-67.)

181.13 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, that part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expense referred to in subsection (a) hereof, shall be deposited in the general fund for Municipal purposes.

181.14 DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

(a) The administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; keep an accurate record thereof; and report all moneys so received.

(b) The administrator shall enforce payment of all taxes owing to the municipality, keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld; and show the dates and amounts of payments thereof.

(c) 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 or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(d) 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. This 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 amount, including penalty and interest, to become payable on demand, and the provisions of Sections 181.10(a) and 181.99 shall apply.

(e) 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 Municipality from the taxpayer and shall send to the taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.

(f) 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, upon written request by the administrator, or his duly authorized agent or employee, the means facilities, and opportunity for making these examinations and investigations as are authorized.

(1) The administrator is authorized to order any person presumed to have knowledge of the facts to appear before him, and may examine that 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 have before him, whether as parties or witnesses, whenever he believes the persons have knowledge of the income or information pertinent to the inquiry.

(2) The refusal, by any employer or persons subject or presumed to be subject to the tax, or required to withhold tax, to produce books, papers, records, and federal income tax returns, to submit to the examination, or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the authorized administrator shall be deemed a violation of this chapter.

(3) Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging this information in violation of this section, 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 months, or both. Each disclosure shall constitute a separate offense.

(4) In addition to the penalty provided in subsection (3) hereof, any employee of the Village who violates the provision of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(5) 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. 1979-56.Passed 12-20-79.)

181.15 BOARD OF REVIEW.

(a) A Board of Review, consisting of the Director of Public Utilities, or a person or employee in the Department of Public Utilities designated by him, the Village legal counsel, or an assistant legal counsel designated by him, and a member of Council to be elected by that body, is created. The Board shall select, each year for a one year term, one of its members to serve as chairman and one to serve as secretary. 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 hearing by the Board may be conducted privately, and the general provisions hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to these matters as may be heard before the Board on appeal.

(b) All rules, regulations, and amendments or changes thereto which are adopted by the administrator under the authority conferred by this chapter must be approved by the Board of Review before the same 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) Any person dissatisfied with any ruling or decision of the administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of the ruling or decision by the administrator, and the Board shall, on hearing, have

jurisdiction to affirm, reverse, or modify any such ruling or decision, or any part thereof.

(Ord. 1967-02. Passed 5-17-67.)

181.16 COLLECTION OF TAX AFTER DETERMINATION.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed; and, insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue 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 shall have been fully terminated, subject to the limitations contained in Sections 181.10 and 181.11.

(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 181.07(a) and 181.09 as though the same were continuing.

(Ord. 1967-02. Passed 5-17-67.)

181.17 INTEREST ON LATE PAYMENT; VIOLATIONS.

(a) All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter, and remaining unpaid after they become due, shall bear interest at the rate of eight percent (8%) per annum.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

(1) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent (10%) per annum, but not less than twenty-five dollars (\$25.00).

(Ord. 1979-56. Passed 12-20-79.)

(2) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than five dollars (\$5.00).

(c) 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. However, in the absence of fraud, neither penalty nor interest shall be assessed on by additional tax assessment resulting from a federal audit, providing an amended return is filed

and the additional tax is paid within three months after a final determination of the federal tax liability.

(d) The administrator or the Board of Review may abate penalty or interest, or both, for good cause shown.

181.18 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 except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000); or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

(Ord. 1990-40. Passed 5-16-90.)

181.99 PENALTY.

(a) No person shall:

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

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

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

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

(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;

(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;

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

(8) Fail to comply with the provisions of this chapter or any authorized order or subpoena of the administrator;

(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 Village tax withheld, or to knowingly give the administrator false information; or

(11) 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.

(b) Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.

(c) All prosecutions under this section must be commenced within the time limits provided by Ohio R.C. 718.06.

(d) Failure to procure forms not excuse. 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 the form, or from paying the tax.