

CHAPTER 171  
Income Tax

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CROSS REFERENCES

Municipal income taxes - see Ohio R.C. Ch. 718

EDITOR'S NOTE: Pursuant to Ordinance 2002-09, passed July 1, 2002, the Village is authorized to enter into a contract with the Regional Income Tax Authority (RITA) for the administration of the Village Income Tax Ordinance.

171.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of this Municipality there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(Ord. 2005-10. Passed 5-2-05.)

171.02 DEFINITIONS.

As used in this chapter, 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) "Adjusted federal taxable income" means a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio R.C. 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2005.

(b) "Administrator" means the individual designated by this chapter, whether appointed or elected to administer and enforce the provisions of this chapter.

(c) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

(d) "Board of Review" means the Board created by and constituted, as provided in Section 171.12.

(e) "Business" means 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, including but not limited to the renting or leasing of property, real, personal or mixed.

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

(g) "Employee" means one who works for wages, salary, commission, or other type of compensation in the service of an employer.

(h) "Employer" means 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.

(i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31st.

(j) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or requests for refunds, which contain all the information required on the Village's regular tax return, estimated payment forms, and request for refund forms, and are in a similar format that will allow processing of the generic forms without altering the Village's procedures for processing forms.

(k) "Gross receipts" means the total income from any source whatsoever.

(1) "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable 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 chapter, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners and other owners; and otherwise adjusted to the requirements of this chapter. For taxable year 2005 and later, see "adjusted federal taxable income".

(m) "Non-resident" means an individual domiciled outside this Municipality.

(n) "Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place of business within this Municipality.

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

(p) "Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employee's income, including non-qualified deferred compensation and stock options, from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Village. This definition is effective January 1, 2005, for taxable years 2005 and later.

(q) "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.

(r) "Resident" means an individual domiciled in this Municipality.

(s) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within this Municipality.

(t) "Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. The term "other compensation" as used herein and throughout this Chapter shall include any lottery winnings, prizes or awards, which are to be reported to the Internal Revenue Service.

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

(v) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 2005-10. Passed 5-2-05.)

#### 171.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 171.15, an annual tax for the purposes specified in Section 171.01 shall be imposed on and after January 1, 1975, at the rate of one percent (1%) per annum upon the following:

(1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of this Municipality.

(2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by non-residents for work done or services performed or rendered in this Municipality, unless otherwise excepted below:

A. A non-residential individual who works in the Municipality twelve (12) or fewer days per year shall be considered an occasional entrant, and shall not be subject to the Village's income tax for those 12 days. For purposes of the 12-day calculation, any portion of a day worked in the Municipality shall be counted as one day worked in the Municipality.

B. Beginning with the thirteenth day, the employer of said individual shall begin withholding Village income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Village in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the Village by the individual for the first twelve days.

C. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Village.

D. The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

(3) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter by a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

(4) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in this Municipality.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.

(5) On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality, whether or not such corporations have an office or place of business in this Municipality.

(b) The portion of the net profits attributable to this Municipality of a taxpayer, conducting a business, profession or other activity, both within and without the boundaries of this Municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Operating Loss Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to (effective date of "first" ordinance permitting loss carry forwards) allocable to this Municipality may be applied against the portion of the profit of succeeding year(s) allocable to this Municipality, until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

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

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

(d) Exceptions. The tax provided for herein shall not be levied upon any individual under the age of eighteen (18) years, the military payor allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal, or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under said section. Further, the tax provided for herein shall not be levied upon any portion of any parsonage allowance, to the extent of the rental allowance or rental value of the house provided as a part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church. (Ord. 2005-10. Passed 5-2-05.)

171.04 EFFECTIVE PERIOD.

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 on and after January 1, 1975.

(Ord. 2005-10. Passed 5-2-05.)

## 171.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 or 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 such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income subject to tax under this chapter is such salary, wages, commissions, or other compensation.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable ordinary, reasonable, and necessary 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 chapter on such earnings and profits; and

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

(c) Consolidated Returns.

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

(2) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within this Municipality, 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 this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by

some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to this Municipality.

(3) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Village. However, once the affiliated group has elected to file a consolidated return or a separate return with the Village, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Village.

(d) 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 a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. The extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Village's Tax Administrator may deny the extension if the taxpayer's income tax account with the Village is delinquent in any way.

(e) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator 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 171.06, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 171.07, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 171.14, 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 this Municipality is entitled under the provisions of this chapter 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; provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(f) (1) Amended returns: 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 171.11 and 171.14. Such amended returns 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 tax liability to this Municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this Municipality 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.

(Ord. 2005-10. Passed 5-2-05.)

#### 171.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by said employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. Said 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. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

(c) On or before January 30 of each year beginning with the year 1976, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office.

(e) Every employer or officer of a corporation or other entity taxpayer is deemed to be a trustee for the Village 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.

(f) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section whether collected by such employer or not. The dissolution of a corporation or other entity taxpayer does not discharge an officer's or employee's liability for a failure of the corporation or other entity taxpayer to file returns or pay tax due prior to dissolution.

(g) Every contract on behalf of the Village for works or improvements of the Village shall contain the following provisions:

The contractor further agrees that all Village income taxes due or payable under Chapter 171 shall be withheld by the contractor pursuant to Section 171.06 and further agrees to supply the Income Tax Department or Village's designee in charge of collecting income tax with a list of its subcontractors' names, addresses, Social Security or Federal ID numbers, and a listing of the services each subcontractor will perform, prior to beginning contract work.

(h) An individual, association, C corporation or other entity engaged in the business of construction work and who will perform construction work in the Village shall obtain a tax account number, issued by the Village Income Tax Department, prior to beginning construction work. The Income Tax Department shall also issue a Certificate of Registration. Failure to possess a valid Certificate shall be cause for suspension of work by the Village Administrator and/or Zoning Administrator and/or the Income Tax Department prior to the construction work commencing and/or during the performance of the construction work. Proof of possession of a valid certificate shall be necessary to commence or resume suspended construction work. The Certificate of Registration may be revoked by the Income Tax Department for failure by the contractor to remain current in the filing of required tax documents, for failure to remain current in the required payment of taxes, and for failure to comply with Section 171.06. The contractor shall further agree to supply the Income Tax Department or Village designee with a list of its subcontractors' names, addresses, Social Security or Federal ID numbers, and a listing of the service each subcontractor will perform, prior to beginning construction work.  
(Ord. 2006-10. Passed 4-3-06.)

#### 171.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 171.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 171.03 and who expects to make a payment with declaration of one hundred dollars (\$100.00) or more for all declarations 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, if any (not to be less than one hundred dollars (\$100.00) per

year). However, if a person's income is wholly from wages, salaries, commissions or other compensation from which the tax will be withheld and remitted to the Village in accordance with Section 171.06, such person need not file a declaration.

(b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for this Municipality's income tax to be withheld from any portion of such income in accordance with the provisions of Section 171.14, 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 and provided for herein.

(d) Such declaration or estimated tax to be paid this 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 sixth, ninth and thirteenth months after the beginning of the taxable year. 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.

(e) 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 this Municipality shall be paid therewith in accordance with the provisions of Section 171.05.

(f) No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent (100%) of the previous year's tax liability, provided that the previous year reflected a twelve-month period, or if ninety percent (90%) of the actual liability has been received.

(g) Effective January 1, 2003, the Declaration of Estimated Tax to be paid to the Village of Centerburg by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of the Declaration amount and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of following year.

(h) Effective January 1, 2003, such declaration of estimated tax to be paid to the Village of Centerburg by corporations and associations shall be accompanied by a payment of at least one-fourth of the Declaration amount and at least a similar amount shall be paid on or before June 15th, September 15th, and December 15th. In the case of a fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.08 DUTIES OF THE ADMINISTRATOR.

(a) (1) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, to keep an accurate record thereof, and to report all monies so received.

(2) It shall be the duty of the Administrator to enforce payment of all taxes owing this Municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) Said Administrator is hereby charged with the enforcement of the provisions of this chapter and is hereby 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 re-examination and correction of returns.

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. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 171.11 and 171.99 shall apply.

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

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 171.10. (Ord. 2005-10. Passed 5-2-05.)

#### 171.09 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 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 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 chapter, punishable as provided in Section 171.99.

(d) Any information gained as a result of any returns, investigations, verifications or hearing before the Administrator, required by this chapter 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 punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six 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 years from the date his return is filed, or the withholding taxes are paid.

(Ord. 2005-10. Passed 5-2-05.)

#### 171.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one-half of one percent ( $\frac{1}{2}\%$ ) per month or fraction thereof.

(b) In addition to interest as provided in subsection (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 ( $1\frac{1}{2}\%$ ) per month or fraction thereof.

(2) For failure to remit taxes withheld from employees, five percent (5%) per month or fraction thereof.

(c) Exceptions. A penalty shall not be assessed or 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 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. 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.

(e) Late Filing Penalty. In addition to any other penalty as may be imposed pursuant to this Chapter, in the event that any return is not filed by its due date, the taxpayer shall be subject to a late filing penalty of fifty dollars (\$50.00).

(Ord. 2002-22. Passed 10-7-02; Ord. 2005-10. Passed 5-2-05.)

#### 171.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter 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 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 subsection (a) hereof.

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

(Ord. 2005-10. Passed 5-2-05.)

#### 171.12 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman and two other individuals to be appointed, is hereby created. 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 provisions of Section 171.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) All rules and 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 (30) days from the announcement of such ruling or decision by the Administrator, provided the taxpayer making the appeal has filed with the Village the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful.

The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed

with the Administrator, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

(d) For matters relating to tax years beginning on or after January 1, 2005, any ruling or decision of the Board of Review/Appeal may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.13 ALLOCATION OF FUNDS.

All funds collected shall be credited to the General Fund of the Village.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Every individual taxpayer who resides in this Municipality but who received net profits, salaries, wages, commissions or other compensation for work done or service performed or rendered outside of this Municipality, if it is made to appear that he has paid a municipal income tax or excise tax based on income, or such net profits, salaries, wages, commissions or other compensation in another municipality, shall be allowed a credit for the amount so paid by him or in his behalf in such other municipality, this credit to be applied only to the extent of fifty percent (50%) of the tax levied by this chapter, by reason of such net profits, salaries, wages, commissions or other compensation earned in such other municipality where such tax is paid.

(b) Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayer's return, as permitted by this section, such taxpayer shall make and file an amended Village return and pay any additional tax shown thereon.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.15 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the Council of this Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(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 or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 171.11 and 171.99.

(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 171.05 and 171.06 as though the same were continuing.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.17 MANDATORY FILING OF RETURN; PENALTY.

All persons residing or doing business within the Village of Centerburg shall file a tax return on a form prescribed by the Administrator for the collection of the Village income tax. 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 to a maximum of three hundred dollars (\$300.00). In addition to the late filing penalty, any return which remains unfiled more than two months after its due date shall be subject to the penalties provided under Section 171.99.  
(Ord. 2005-10. Passed 5-2-05.)

#### 171.99 PENALTY.

(a) Any person who shall:

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

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

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

(4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

(5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or

(6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer 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 chapter or any order or subpoena of the Administrator authorized hereby; or

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

Shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three 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 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.

(Ord. 2005-10. Passed 5-2-05.)

CODIFIED ORDINANCES OF CENTERBURG