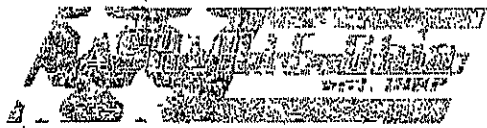


ORDINANCE 2008 - 08



AN ORDINANCE TO AMEND THE VILLAGE OF ASHVILLE INCOME TAX ORDINANCE, AND DECLARING AN EMERGENCY.

WHEREAS, THE COUNCIL OF THE VILLAGE OF ASHVILLE, OHIO WHOM IS RESPONSIBLE FOR THE HEALTH, SAFETY, AND WELFARE OF THE VILLAGE OF ASHVILLE, AND

WHEREAS, IT IS DESIRABLE TO MAINTAIN A METHOD TO GENERATE REVENUE.

NOW THEREFORE, be it resolved by the Council of the Village of Ashville, Pickaway County, and State of Ohio:

SECTION ONE:

The following amendments will be made to Ordinance 00-09 and Title Nine -- Taxation Chapter 133.02. Income Tax Administrator:

133.02 INCOME TAX ADMINISTRATOR:

(c) The Income Tax Administrator shall submit a report to Council at a regular meeting each month.

SECTION TWO:

The following amendments will be made to Ordinance 00-09 and Title Nine -- Taxation Chapter 181. Income Tax:

181.02 DEFINITIONS:

(w) "Gambling" means, but is not limited to, bingo, keno, slot machines, casino, games, horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, prizes and any other wagering transactions.

(x) "Nonresident" means an individual, partnership, LLC, limited partnership, corporation, association of other entity domiciled outside the Village.

(y) "Resident" means an individual, partnership, LLC, limited partnership, corporation, Subchapter S, corporation, close corporation, association, business or other entity domiciled in, residing in, or having a place of business in the Village.

(z) "Domicile" means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

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

(bb) "Income" shall mean all monies derived from any source whatsoever including but not limited to:

(1) All salaries, wages, commissions, other compensation and other income from whatever source received by residents of the Municipality of Ashville.

(2) All salaries, wages, commission, other compensation and other income from whatever source received by nonresidents from work done or services performed or rendered or activities conducted in the Village of Ashville.

(3) The portion attributable to the Municipality of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services provided or rendered, and business or other activities conducted in the Village of Ashville.

(cc) "Income from a Pass-through Entity" means partnership income of partners, distributive shares of shareholders of an S Corporation, membership interest of members of a Limited Liability Company, or other distributive or proportionate ownership share of other Pass-through Entities.

(dd) "Limited Liability Company" means a Limited Liability Company formed under Chapter 1705: Limited Liability Companies of the Ohio Revised Code.

(ee) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.

(ff) "Owner" means a partner of a partnership, a shareholder of an S Corporation, a member of a Limited Liability Company, or other person with an ownership interest in any type of Pass-through Entity.

(gg) "Pass-through Entity" means a Partnership, S Corporation, Limited Liability Company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

(hh) "Qualifying wage" means the 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 employees' income from which municipal tax shall be deducted by the employer; and any wages not considered a part of "qualifying wage" shall not be taxes by this Municipality.

181.03 IMPOSITION:

(a) Rate and Income Taxable:

(7) On all income from gambling winnings and reported on IRS Form W-2G, Form 5754 and /or any other form from the Internal Revenue Service that reports winnings from gambling, except to the extent that they are excluded by Section 181.05 Subsection (a) Sources of Income Not Taxed of the Ordinance, by a resident of the Village of Ashville. No regard is given to losses or to the location where the gambling, lottery, and/or sports winnings were received.

(c) Mandatory Registration. Each new resident (home owner and/or renter) of the Village of Ashville shall register with the Village Income Tax Administrator, or its designee, to become subject to the Municipal income tax within thirty (30) days of residence in the Municipality.

181.05 EXEMPTIONS:

(a) Sources of Income Not Taxed.

(14) Receipts from any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literacy, scientific, etc., purposes.

181.06 RETURNS:

(b) Form and Contents of Return.

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or *generic forms*, setting forth:

(g) Permanently Retired or Disabled Returns.

(1) If you are permanently retired or disabled, you are required to file an exemption form with the Village the year you officially permanently retire or become permanently disabled. Once this exemption form is properly filed, you no longer are required to submit any further paperwork unless your tax situation changes and/or income is received that is subject to Municipal Income Tax. If you are not permanently retired or disabled but have no taxable income, you are required and must continue to file an exemption form with the Village each year.

(h) Business losses

(1) Business losses are not to be used against W-2 income.

(a) Commencing March 15, 2009 and each year thereafter, and on September 15, and each year thereafter, each owner, or his designated agent, of three or more units of real property located within the Village and which are rented or available for rent as of these dates, shall submit to the Village Tax Administrator, or his designated representative, a list on a form, or forms, furnished by or obtainable upon request from such Administrator, or generic forms, of those tenants presently occupying these rental units and those units of real property which are subject to the rental agreement whether oral or written for residential, commercial or industrial purposes.

(b) Within thirty (30) days after a new tenant occupies rental property of any kind within the Village, all owners of rental property who rent to tenants apartments, rooms and other rental accommodations shall file with the Tax Administrator a report showing the names, addresses and telephone numbers, if available, of such tenants who occupies an apartment, room or other rental property with the Village.

(c) Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Village, the property owner of such vacated rental property shall file with the Tax Administrator, a report showing the date of vacation from the rental property and identifying each such vacating tenant with a forwarding address.

(d) Whoever violates this section shall be subject to a fine of five dollars (\$5.00) per day for each and every day they remain in violation: total not to exceed one hundred dollars (\$100.00) for each instance.

181.07 PAYMENT OF TAX:

(b) Collection at Source

(5) An individual, association, C Corporation or other entity engaged in the business of construction work and who will perform construction work in the Village of Ashville shall obtain a Certificate of Registration, issued by the Village Income Tax Department, prior to beginning construction work. Failure to possess a valid Certificate shall be cause for suspension of work by the Village Administrator, 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 the required tax documents, or failure to remain current in the required payment of taxes, and for failure to comply with Chapter 181.07 (B) (5) of the codified ordinances of the Village of Ashville. The contractor shall further agree to supply the Income Tax Department or Village designee with a list of subcontractor's names, addresses, Social Security and/or Federal ID numbers, and a listing of service each subcontractor will perform, prior to, and upon completion of all and any construction work.

(c) Declarations of Income Collected at Source:

(1) Any person who anticipates any taxable income which is not subject to section 181.03, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.04 and anticipates a tax liability of one hundred dollars (\$100.00) or more, shall file a declaration setting forth such estimated income or the estimated profits (loss) from such business activity, together with the estimated tax due thereon, if any. Provided, however, that if a person's income is wholly from wages which the tax will be withheld and remitted to this Municipality in accordance with Section 181.07, such person need not file a declaration.

(2) If local tax is not automatically withheld from your pay and/or you owe tax of \$100 or more, you are required to file a declaration of estimated tax and pay quarterly. The declaration is due the same time as your income tax return and the quarterly payments are due as follows.

(3) Any and all quarterly payments are due as follows:

- Calendar year taxpayers
 - 1st quarter – April 15
 - 2nd quarter – July 31
 - 3rd quarter – October 31
 - 4th quarter – January 31

- Fiscal Year Taxpayers
 - 1st quarter – 15th day of the 4th month after the close of the fiscal period

 - 2nd quarter – 15th day of the 6th month after the close of the fiscal period
 - 3rd quarter – 15th day of the 9th month after the close of the fiscal period
 - 4th quarter – 15th day of the 12th month after the close of the fiscal period

181.08 Interest and Penalties.

- (a) Interest on Unpaid Tax. All taxes imposed and all monies withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provision of this chapter of the Village of Ashville and remaining unpaid after they become due, shall bear interest on any liability at the rate of 6 percent (6%) per annum.
- (b) Penalties on Unpaid Tax. All taxes imposed and all monies withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provision of this chapter of the Village of Ashville and remaining unpaid after they become due, shall bear penalty on any liability at the rate of 10 percent (10%) per annum, but not less than \$5.00.

- (c) Late Filing Fee. Any person required to, but failing to file a Village of Ashville Income Tax Return when due as required by this chapter, shall be assessed a late filing fee of twenty-five dollars (\$25.00) for each and every instance whether or not a tax is due the Village of Ashville. This fee is in addition to penalties and interest due on any liability.
- (d) Exceptions.
- (e) Violations.
- (f) Limitation on Prosecution.
- (g) Failure to Procure Forms Not Excuse.

SECTION TWO:

That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health and safety of the Village and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid practical and legal entanglements, and shall go into full force and effect January 1, 2009 upon its passage by Council.

PASSED THIS 1 DAY OF December 2008
 ATTEST:

Barbara J. Gilbert
 Barbara J. Gilbert, Clerk/Fiscal Officer

12-01-08
 Date

APPROVED:

Charles K. Wise
 Charles K. Wise, Mayor

01 Dec 08
 Date

Date of Production:
 Revised Date:
 Review Date:

I Barbara J. Gilbert, Fiscal Officer of the Village of Ashville, Ohio hereby certify that the foregoing is a true and correct copy of the original.

Barbara J. Gilbert Date 12/3/08
 Barbara J. Gilbert, Fiscal Officer

TITLE NINE - Taxation
Chap. 181. Income Tax.

CHAPTER 181
Income Tax

181.01	Purpose.	181.07	Payment of tax.
181.02	Definitions.	181.08	Interest and penalties.
181.03	Imposition.	181.09	Collection of unpaid taxes and
181.04	Determination of allocation of		refunds of overpayment.
	tax.	181.10	Board of Review.
181.05	Exemptions.	181.11	Other provisions.
181.06	Returns.		

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

181.01 PURPOSE.

(a) Purpose of Levy of Income Tax. To provide funds for the purposes of general Municipal functions of the Village of Ashville, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.
(Ord. 99-09. Passed 5-17-99.)

181.02 DEFINITIONS.

(a) Definitions Generally. For the purpose of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in the next succeeding sections. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(b) "Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the Municipal income tax along with the Administrator of the Regional Income Tax Agency.

(c) "Association" means any 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 this chapter.

(e) "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.

(f) "Business" means any enterprise, activity, and 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.

(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, 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.

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

(j) "Gross Receipts" means the total income from any source whatsoever.

(k) "Municipality" is used in Article XVIII (18), Ohio Constitution, and specifically does not include a school district or any other political subdivision as defined by Ohio R.C. 2744.01

(l) "Net Profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter; 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. (Ord. 2002-14. Passed 11-18-02.)

(m) "Nonresident" means an individual domiciled outside the Municipality.

(n) "Nonresident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the Municipality.

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

(p) "Place of Business" means any bonafide 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.

- (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, 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 the chapter.
- (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 such 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. 99-09. Passed 5-17-99.)
- (v) "Parsonage allowance" is an amount paid to a "minister of the gospel" in the form of a rental allowance as part of the minister's compensation, or the rental value of a home furnished to the minister's compensation.
(Ord. 2002-14. Passed 11-18-02.)

181.03 IMPOSITION.

- (a) Rate And Income Taxable. An annual tax for the purposes specified in this chapter shall be imposed on and after January 1, 2008 at the rate of one percent (1.0%) per annum upon the following:
- (1) On all salaries, wages, commissions and other compensation earned on and after January 1, 2008, by residents of the Village of Ashville;
 - (2) On all salaries, wages, commissions and other compensation earned on or after January 1, 2008, by nonresidents of the Village of Ashville for work done or services performed or rendered within the Village of Ashville;
 - (3) A. On the portion attributable to the Village of Ashville on the net profits earned on and after January 1, 2008 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 Village of Ashville;
B. On the portion of the distributive share of the net profits earned on or after January 1, 2008, of a resident, partner or owner of a resident unincorporated business entity not attributable to the Village of Ashville and not levied against such unincorporated business entity by the Village of Ashville;
 - (4) A. On the portion attributable to the Village of Ashville of the net profits earned on or after January 1, 2008, 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 Village of Ashville, whether or not such unincorporated business entity has an office or place of business in the Village of Ashville;

- B. On the portion of the distributive share of the net profits earned on or after January 1, 2008, of a resident, partner or owner of a nonresident unincorporated business entity not attributable to the Village of Ashville and not levied against such unincorporated business entity by the Village of Ashville.
- (5) On the net profits on and after January 1, 2008, of all corporations, estates, trust and limited partnerships, derived from work done or services performed or rendered, ordinary gains from the operation of and/or the complete or partial sale or disposition of the assets of a business, profession, or enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit) and business or other activities conducted in the Village, whether or not such corporations, estates, trusts, and limited partnerships have their principal or other place of business located in the Village limits.
- (6) On a resident's entire share, whether distributed or not, of the net profits of a Subchapter S Corporation as defined in Section 1361 of the Internal Revenue Code. If a resident is a shareholder in two or more Subchapter S Corporations to be included in the same return, the resident's share of the net loss of one Subchapter S Corporation (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the resident's share of the profits of another Subchapter S Corporation for purposes of arriving at overall net profits derived from Subchapter S Corporations. The tax imposed under this paragraph is effective for all accounting periods commencing on or after January 1, 2008.

(b) Effective Period. Such 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 business, professions, or other activities earned on or after January 1, 2008. (Ord. 2007-16. Passed 12-17-07.)

181.04 DETERMINATION OF ALLOCATION OF TAX.

(a) Method of Determination. In the taxation of income which is subject to Municipal income taxes, 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 such portion shall be considered as having 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 Municipality 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 the preceding paragraph, "real property" includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the Municipality 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 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.

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 such results.

(b) Sales Made in Municipality. 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 Village of Ashville regardless of where title passes if shipped or delivered from a stock of goods within the Village of Ashville.
- (2) All sales of tangible personal property which is delivered within the Village of Ashville, regardless of where title passes even though transported from a point outside the Village of Ashville, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Ashville and the sales result from such solicitation or promotion;
- (3) All sales of tangible personal property which is shipped from a place within the Village of Ashville to purchasers outside the Village of Ashville, 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.

(c) Total Allocation. Add together the percentage determined in accordance with subsections (b)(1), (2) and (3) above 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 such total in order to obtain the business allocation percentage referred to above.

A factor is applicable even though it may be allocable entirely in or outside the Municipality.

(d) Rentals. Rentals income received by a taxpayer shall be included in the computation of net profits from business activities under Section 181.03(a)(3), (4) and (5), only if and to the extent that the rental, ownership, management or operation of the real estate from which such 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.

Where the gross monthly rental of any and all real properties, regardless of number and value, aggregate in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that 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 such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that 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 said two hundred fifty dollars (\$250.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

- (e) Operating Loss Carry-Forward.
- (1) The portion of a net operating loss sustained in any taxable year subsequent to June 1, 1999, 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 such net operating loss carry-forward shall be determined.
(Ord. 99-09. Passed 5-17-99.)

181.05 EXEMPTIONS.

- (a) Sources of Income Not Taxed. The tax provided for herein shall not be levied on the following:
- (1) Pay or allowances 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 such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
 - (2) 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.
 - (3) 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.
 - (4) Receipts from seasonal or casual entertainment, amusements, sport events and health and welfare activities when any such are conducted by bonafide charitable, religious or education organization and associations.
 - (5) Alimony received.
 - (6) Personal earnings of any natural person under eighteen years of age.
 - (7) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
 - (8) Interest, dividends and other revenue from intangible property.
 - (9) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the Municipality is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

- (10) 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.
- (11) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution for the State of Ohio or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.
(Ord. 99-09. Passed 5-17-99.)
- (12) Personal earnings of any natural person under the age of 21, who is a fulltime college student, having a minimum enrollment of 12 hours each semester (fall & spring) or each quarter (fall, winter, spring).
(Ord. 2001-21. Passed 9-4-01.)
- (13) Parsonage allowances received.
(Ord. 2002-14. Passed 11-18-02.)

181.06 RETURNS.

(a) When Return Required to Be Made. Each taxpayer shall, whether or not a tax be due thereon, make and file a return or before April 30th of the year following the effective date of this chapter and on or before April 30th 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 (4) months from the end of such fiscal year or period.

(b) Form And Contents of Return. 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 activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such 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) Extension of Time For Filing Returns. 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 or interest shall be assessed in those cases in which the return is filed and the final tax paid with the period as extended.

(d) Consolidated Returns.

- (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 the case any person operates a division, branch, factory, office, laboratory, or activity within the Village of Ashville 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 by the Village of Ashville. If the Administrator finds that net profits are not properly allocated to the Village of Ashville 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 the Municipality.
- (3) Filing of consolidated returns will be accepted from affiliated groups of corporations that file consolidated returns (for the same tax reporting period) for federal income tax purposes.
(Ord. 2002-14. Passed 11-18-02.)

(e) Amended Returns.

- (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both contained in appropriate sections of this chapter. Such 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, such taxpayer shall make and file an amended municipal return showing income subject to the municipal tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
(Ord. 99-09. Passed 5-17-99.)

(f) The officer or employee having control or supervision of or who is charged with responsibility for filing any return or declaration required by this chapter and making payment, or any officer of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge a responsible officer's or employee's liability for a failure of the corporation to file returns or declarations or pay tax or employer withholding due. (Ord. 2000-19. Passed 7-24-00.)

181.07 PAYMENT OF TAX.

(a) Payment of Tax on Filing of Returns.

- (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon, provided, however, that:
 - A. Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this chapter; or
 - B. Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this chapter; or

- (2) A taxpayer who has overpaid the amount of tax which the Village of Ashville is entitled under the provision of this chapter may have such overpayment applied against any subsequent liability hereunder, or at his election, indicated on the return, such overpayment (or any part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(b) Collection at Source.

- (1) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village of Ashville shall deduct, at the time of the payment of such salary, wages, commissions or other compensation, the tax of one percent (1.0%) per annum of the gross salaries, wages, commissions or other compensation due by the said employer to said 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, provided, however, that 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 such month occurred.
- (2) 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.
- (3) Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer to the Village of Ashville as a trustee for the benefit of the Village of Ashville, and any such tax collected by such employer from his employees shall, until the same is paid to the Village of Ashville, be deemed a trust fund in the hands of such employer.
- (4) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Village of Ashville, but such employee shall be subject to all of the requirements of this chapter.

(c) Declarations of Income Collected at Source. Any person whose income tax is not fully withheld in the Village of Ashville or in any other municipality in which taxes are withheld at a rate the same as or higher than the rate provided in this chapter hereof shall file a declaration setting forth estimated 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:

- (1) Tax withheld within the Village of Ashville.

(d) Filing of Declaration.

- (1) The declaration required by this chapter shall be filed on or before April 30th of each year during the effective period set forth in 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 with four months after the beginning of each fiscal year of period.

(e) Form of Declaration.

- (1) The declaration required by this chapter shall be filed upon a form furnished by or obtainable from the Administrator.
(Ord. 2001-21. Passed 9-4-01.)
- (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.

(f) Payment to Accompany Declaration. Such declaration of estimated tax to be paid to the Village of Ashville shall be accompanied by a payment of at least 22 1/2% of the estimated annual tax liability by April 30th, 45% by July 31, 67 1/2% by October 31, and 90% by January 31 for individuals, 22 1/2% by the taxpayers federal return filing date, 45% by June 15th, 67 1/2% by September 15th, and 90% by December 15 for calendar year taxpayers that are not individuals; and 22 1/2% by the 15th day of the fourth month of the taxpayers taxable year, 45% by the 15th of the sixth month, 67 1/2% by the 15th of the ninth month, and 90% by the 15th day of the 12th month for fiscal year taxpayers that are not individuals.
(Ord. 2002-14. Passed 11-18-02.)

(g) Annual Return. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village of Ashville shall be paid therewith in accordance with the provisions of this chapter. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or any amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(h) Extensions. The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this chapter for a period not to exceed six months beyond the original required date.
(Ord. 99-09. Passed 5-17-99; Ord. 2007-16. Passed 12-17-07.)

181.08 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed and all monies withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter of the Village of Ashville and remaining unpaid after they become due, shall bear interest at the rate of six percent (6%) per annum.

(b) Penalties on Unpaid Tax. In addition to interest as provided in this chapter, 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 \$5.00.
- (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 \$5.00.

(c) Exceptions.

- (1) A penalty shall not be assessed on any 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 against a taxpayer by the Administrator 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.
- (2) A penalty shall not be assessed for the late payment or nonpayment of estimated taxes if the taxpayer pays estimated taxes equal to the taxpayers reported tax liability for the preceding year.
- (3) A penalty shall not be assessed for nonpayment of estimated taxes if the taxpayer was not domiciled in the municipal corporation on January 1 of the current calendar year.
(Ord. 2002-14. Passed 11-18-02.)

(d) Abatement of Interest And Penalty. Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown.

(e) Violations. 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) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) 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 of 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 any employer false information as to his true name, correct social security number and resident address, or fail to promptly notify an employer of any change in resident address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees; resident addresses, total wages paid and municipal tax withheld or 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 guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(f) Limitation on Prosecution. All prosecutions under this section must be commenced within the time specified in Ohio R.C. 718.12.

(g) 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 such form, or from paying the tax. (Ord. 99-09. Passed 5-17-99.)

181.09 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENT.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of the like amount are recoverable. Except in the case of fraud, of 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, provided, 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) Refund of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such 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 of Less Than Five Dollars. Amounts of less than five dollars (\$5.00) shall not be collected or refunded. (Ord. 2001-21. Passed 9-4-01.)

(d) Claim For Refund. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due.

(e) Duty to Receive Tax Imposed. 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.

(f) Duty to Enforce Collection. It shall be the duty of the Administrator to enforce payment of all taxes owing to the Municipality, to 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 to show the dates and amount of payment thereof.

(g) Authority to Make And Enforce Regulations. The 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 provisions for the re-examination and correction of returns.

(h) Authority to Arrange Installment Payments. 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.

(i) Authority to Determine Amount of Tax Due. 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 such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.

(j) Authority to Make Investigation. 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 who 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.

(k) Authority to Compel Production of Records. 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 returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(l) Refusal to Produce Records. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or persons 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 chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter punishable as provided in this chapter.

(m) Confidential Nature of Information. 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 deemed guilty of a misdemeanor and shall be subject to a fine or penalty of 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.

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

(n) Taxpayer Required to Retain Records. 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.

(o) Authority to Contract From Central Collection Facilities. The Village of Ashville having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance Number 97-12, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency", the Board of Trustees of said Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the Village of Ashville, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of said agency through the administrator of said agency. Provided, however, the Administrator of said agency shall have no authority to abate penalties or interest provided for in this chapter.

(Ord. 99-09. Passed 5-17-99.)

181.10 BOARD OF REVIEW.

(a) A Board of Review, consisting of a member of Council and two other Village resident individuals each to be appointed by the Mayor, is hereby created. The Board shall select for a one-year term one of its members to serve as Chairperson and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall establish its own rules of organization and procedure for the conduct of its business, and keep a record of its proceedings. Such records of proceedings and hearings are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested before the Board by the taxpayer are not meetings of a public body subject to provisions of Section 121.22 of the Ohio Revised Code.

(Ord. 2001-08. Passed 4-2-01.)

(b) Duty to Approve Regulations And to Hear Appeals. 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.

(Ord. 99-09. Passed 5-17-99.)

(c) Any person dissatisfied with any ruling or decision of the Tax Administrator which is made under the authority conferred by this chapter, and who has filed with the municipal corporation the required returns or other documents pertaining to the municipal income tax obligations at issue in the decision, may appeal the decision to the Board created pursuant to this section by filing a request with the Board. The request shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty days after the Tax Administrator issues the decision complained of.

The Board shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board, and may be represented by an attorney at law, certified public accountant, or other representative.

The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.

(Ord. 2001-08. Passed 4-2-01.)

181.11 OTHER PROVISIONS.

(a) Declaration of Legislative Intent. 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 part of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part hereof not been included herein.

(Ord. 99-09. Passed 5-17-99.)