

CHAPTER 126 Municipal Income Tax

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PURPOSE

126.0101 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purposes of general functions, including operating, capital improvement and debt retirement of the Municipality of Chagrin Falls, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits as hereinafter. provided. On and after January 1, 1986, all moneys received by the Municipality from such income tax shall be allocated on the basis of eighty-five percent (85%) for general operating purposes, zero percent (0%) for the Permanent Improvement Fund and debt retirement, and fifteen percent (15%) for the Street Construction Maintenance and Repair Fund.

(Ord.1985-32. Passed 11-25-85.)

DEFINITIONS

126.0301 DEFINITIONS.

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

(Ord.1968-730. Passed 6-18-68.)

126.03011 ADJUSTED FEDERAL TAXABLE INCOME.

"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.

(Ord. 2005-44. Passed 7-11-05.)

126.0302 ADMINISTRATOR.

"Administrator" means the Director of Finance of the Municipality who is designated to administer and enforce the provisions of the municipal income tax.

(Ord.1968-730. Passed 6-18-68.)

126.0303 ASSOCIATION.

"Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
(Ord.1968-730. Passed 6-18-68.)

126.0304 BOARD OF REVIEW.

"Board of Review" means the Board created by and constituted as provided in Section 126.2501 herein.
(Ord.1968-730. Passed 6-18-68.)

126.0305 BUSINESS.

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding however, all nonprofit corporations which are exempt from the payment of Federal Income Tax.
(Ord.1968-730. Passed 6-18-68.)

126.0306 CORPORATION.

"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.
(Ord.1968-730. Passed 6-18-68.)

126.0307 EMPLOYEE.

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
(Ord.1968-730. Passed 6-18-68.)

126.0308 EMPLOYER.

"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.
(Ord.1968-730. Passed 6-18-68.)

126.0309 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
(Ord.1968-730. Passed 6-18-68.)

126.03091 GENERIC FORM.

"Generic form" means an electronic or paper form designated for reporting estimated municipal taxes, and/or annual municipal income tax liability, and/or requests for refunds, which contains all the information required on the Municipality's regular tax return, estimated payment forms, and request for refund forms, and is in a similar format that will allow processing of the generic forms without altering the Municipality's procedures for processing forms.
(Ord. 2005-44. Passed 7-11-05.)

126.0310 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatever.
(Ord.1968-730. Passed 6-18-68.)

126.0311 NET PROFITS.

"Net profits" means, for taxable years prior to 2005, 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. For taxable years 2005 and later, see the definition of adjusted federal taxable income.
(Ord. 1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.0312 NONRESIDENT.

"Nonresident" means an individual domiciled outside the Municipality.
(Ord.1968-730. Passed 6-18-68.)

126.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
(Ord.1968-730. Passed 6-18-68.)

126.0314 PERSON.

"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.
(Ord.1968-730. Passed 6-18-68.)

126.0315 PLACE OF BUSINESS.

"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.
(Ord.1968-730. Passed 6-18-68.)

126.03151 QUALIFYING WAGE.

"Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitation, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' 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 Municipality. This definition is effective January 1, 2005, for taxable years 2005 and later.
(Ord. 2005-44. Passed 7-11-05.)

126.0316 RESIDENT

"Resident" means an individual domiciled in the Municipality.
(Ord.1968-730. Passed 6-18-68.)

126.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
(Ord.1968-730. Passed 6-18-68.)

126.0318 TAXABLE INCOME.

"Taxable income" means qualifying wages, salaries and other compensation paid by an employer or employers before any deduction 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.

(Ord.1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.0319 TAXABLE YEAR.

"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.

(Ord.1968-730. Passed 6-18-68.)

126.0320 TAXPAYER.

"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.1968-730. Passed 6-18-68.)

126.0321 MANAGER.

"Manager" means any of the employer's officers, responsible persons, employees having control or supervision, and employees charged with the responsibility of filing the return, paying taxes and otherwise complying with this chapter.

(Ord.1986-33. Passed 7-14-86.)

126.0322 FUNDAMENTAL CHANGE.

"Fundamental change" means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.

(Ord.1986-33. Passed 7-14-86.)

IMPOSITION OF INCOME TAX

126.0501 RATE AND INCOME TAXABLE.

An annual tax for the purposes specified in Section 126.0101 hereof shall be imposed on and after July 1, 1981 at the rate of one and one-half percent per annum upon the following:

(a) On all salaries, qualifying wages, commissions and other compensation earned on and after July 1, 1981, by residents of the Municipality.

(b) On all salaries, qualifying wages, commissions and other compensation earned on and after July 1, 1981, by nonresidents of the Municipality for work done or services performed or rendered within the Municipality.

(c) (1) On the portion attributable to the Municipality on the net profits earned on and after July 1, 1981, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Municipality.

(2) On the portion of the distributive share of the net profits earned on and after July 1, 1981, of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.

(d) (1) On the portion attributable to the Municipality of the net profits earned on or after July 1, 1981, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.

(2) On the portion of the distributive share of the net profits earned on and after July 1, 1981, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality.

(e) On the portion attributable to the Municipality of the net profits earned on and after July 1, 1981, of all corporations, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.

(Ord.1980-61. Approved by voters 3-3-81; Ord. 2005-44. Passed 7-11-05.)

(f) On the portion attributable to the Municipality pursuant to the terms of this chapter and including:

(1) Royalty income. Income earned by a taxpayer from a royalty interest in the production of an oil or gas well whether managed, extracted or operated by the taxpayer individually or through an agent or other representative, shall be included in the computation of net profits from a business activity to the extent that such royalty interest constitutes a business activity of the taxpayer.

Where the gross income received by a taxpayer from a royalty interest in the production of an oil or gas well in a taxable year exceeds three thousand dollars (\$3,000) it shall be prima-facie evidence that the income was derived from a business activity of such taxpayer and the net income from such royalty interest shall be subject to tax.

(2) Employer's income. The employer's income derived from finance and carrying charges associated with his customers' accounts receivable. (Ord 1986-33. Passed 7-14-86; Ord. 2005-44. Passed 7-11-05.)

(g) Occasional Entrant Rule.

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

(2) Beginning with the thirteenth day, the employer of said individual shall begin withholding the Municipality's income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Municipality 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 Municipality by the individual for the first twelve days. If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality.

(3) The twelve-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. (Ord. 2005-44. Passed 7-11-05.)

126.0502 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 businesses, professions or other activities earned on and after July 1, 1981. (Ord.1980-61. Approved by voters 3-3-81.)

DETERMINATION OF ALLOCATION OF TAX

126.0701 METHOD OF DETERMINATION.

In the taxation of income which is subject to the municipal income tax, the portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Municipality shall be determined as follows:

(a) 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 subsection (a)(1) hereof, 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 business or profession for services performed 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 made and services performed during the taxable period in the Municipality to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing allocation formula does not produce an equitable result, the Administrator may approve the use of books and records as a substitute method, by applying the following:

(1) The net profits allocable to the Municipality from business, profession or other activities conducted in the Municipality by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the Municipality.

(2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the

manner in which such apportionment is made in sufficient detail to enable the Administrator to determine whether the net profits attributable to the Municipality are apportioned with reasonable accuracy.

(3) In determining the income allocable to the Municipality from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the Municipality. (Ord. 1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.0702 SALES MADE IN THE MUNICIPALITY.

As used in Section 126.0701(c) sales made in the Municipality means:

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

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

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

(Ord.1968-730. Passed 6-18-68.)

126.0703 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 126.0701(a), (b) and (c) 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 in Section 126.0701.

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

(Ord.1968-730. Passed 6-18-68.)

126.0704 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 126.0501(c), (d) and (e), 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 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.

(Ord.1971-850. Passed 12-7-71.)

126.0705 OPERATING LOSS-CARRY FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1968, 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.

(b) 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.

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

(Ord.1968-730. Passed 6-18-68.)

EXEMPTIONS

126.1001 SOURCES OF INCOME NOT TAXED.

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

- (a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by 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).
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any

act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes.

(l) Parsonage allowance, to the extent of the rental allowance or rental value or a 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. 1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

RETURNS

126.1101 WHEN RETURN REQUIRED TO BE MADE.

Any person who has no income need not file an annual return. Any person who has exempt income must file a return and declare to the Administrator the nature of his exemption. Any person who has taxable income must file a tax return with the Tax Administrator.

Persons required to file a return shall do so on or before April 15th of the year following the year for which they are filing. 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.
(Ord.1986-33. Passed 7-14-86; Ord. 2005-44. Passed 7-11-05.)

126.1102 FORM AND CONTENT 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 on a generic form, setting forth:

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;

(b) The amount of the tax imposed by this chapter on such earnings and profits; and

(c) Such other pertinent statements, information returns or other information as the Administrator may require.
(Ord.1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.1103 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 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 Administrator may deny the extension if the taxpayer's income tax account with the Municipality is delinquent in any way.
(Ord. 1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.1104 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator. Notwithstanding, 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 Municipality. However, once the affiliated group has elected to file a consolidated return or a separate return with the Municipality, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Municipality.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity, within the Municipality constituting a portion only of its total business, the Administrator shall require such additional information as he or she may deem necessary to ascertain whether net profits are properly allocated to the Municipality. If the Administrator finds that net profits are not properly allocated to the Municipality by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he or she shall make such allocation as he or she deems appropriate to produce a fair and proper allocation of net profits to the Municipality.

(Ord.1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.1105 AMENDED RETURNS.

(a) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations, or both, contained in Sections 126.1701, 126.1702 and 126.1703 and Section 126.1902 hereof. 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.

(b) 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.1968-730. Passed 6-18-68.)

PAYMENT OF TAX

126.1301 PAYMENT OF TAX ON FILING OF RETURNS.

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

(1) Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 126.1302 hereof; or

(2) Where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 126.1303 hereof; or

(3) Where an income tax has been paid on the same income to another municipality; credit for the amount so deducted or paid, or credit to the extent provided for in Section 126.1902, 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 such return.

(b) A taxpayer who has overpaid the amount of tax to which the 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. (Ord.1971-850. Passed 12-7-71.)

(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer shall make such withholding until such time that the

predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager shall be jointly and severally liable for the payment of such taxes, interest and penalty.
(Ord.1986-33. Passed 7-14-86.)

126.1302 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of such salary, qualifying wages, commissions or other compensation, the tax of one percent (unless a different tax rate is imposed in Section 126.0501) per annum of the gross salaries, qualifying wages, commissions or other compensation due by such employer to such 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.
(Ord. 2005-44. Passed 7-11-05.)

(b) Such returns shall be on a form or forms prescribed 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.

(c) Such employer in collecting such 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 the Municipality, and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.

(d) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Municipality, but such employee shall be subject to all of the requirements of this chapter.
(Ord.1971-850. Passed 12-7-71.)

(e) Manager's Obligation.

(1) Every manager is deemed to be a trustee of the Municipality in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

Every manager is liable directly to the Municipality for payment of such trust, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to the Municipality, whether or not the employer actually remits the tax to the Municipality, for purposes of determining employee payments or credits.

(2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(3) No change in structure by an employer, including a fundamental change, discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.
(Ord.1986-33. Passed 7-14-86.)

126.1303 DECLARATIONS OF INCOME.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the Municipality, less the tax credit allowed in Section 126.1902 hereof, unless such taxpayer anticipates that such tax will be fully withheld within the Municipality, and any income earned outside of the Municipality will be fully taxed at the same or higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than ten dollars (\$10.00), no declaration or payment of estimated tax is required.
(Ord.1973-919. Passed 12-4-73.)

126.1304 FILING OF DECLARATION.

(a) The declaration required by Section 126.1303 above shall be filed on or before April 15 of each year during the effective period set forth in Section 126.0502 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
(Ord.1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

126.1305 FORM OF DECLARATION.

(a) The declaration required by Section 126.1303 hereof shall be filed upon a form furnished by or obtainable from the Administrator. As provided in Section 126.1303 hereof, credit shall be taken for the Village of Chagrin Falls tax to be

withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 126.1902 hereof.

(b) 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.

(Ord.1971-850. Passed 12-7-71.)

126.1306 PAYMENT TO ACCOMPANY DECLARATION.

Effective January 1, 2005, the declaration of estimated tax to be paid the Municipality 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 the following year. Effective January 1, 2005, such declaration of estimated tax to be paid the Municipality 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. 1973-919. Passed 12-4-73; Ord. 2005-44. Passed 7-11-05.)

126.1307 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 Municipality shall be paid therewith in accordance with the provisions of Section 126.1301 hereof. 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 a declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(Ord.1971-850. Passed 12-7-71.)

126.1308 EXTENSIONS.

The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by Sections 126.1301 to 126.1307 for a period not to exceed six months beyond the original required date. See Section 126.1103 for procedure to request extension of time for filing returns.

(Ord.1968-730. Passed 6-18-68; Ord. 2005-44. Passed 7-11-05.)

INTEREST AND PENALTIES

126.1501 INTEREST ON UNPAID TAX.

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

(Ord.1980-12. Passed 2-25-80.)

126.1502 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 126.1501, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

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

(b) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00).

(c) Notwithstanding the above, no penalties 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.

(Ord.1980-12. Passed 2-25-80; Ord. 2005-44. Passed 7-11-05.)

126.1503 EXCEPTIONS.

A penalty shall not be assessed on an additional tax assessment made against a taxpayer 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 a final determination of the federal tax liability.

(Ord.1968-730. Passed 6-18-68.)

126.1504 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.
(Ord.1971-850. Passed 12-7-71.)

126.1505 VIOLATIONS.

Any person who:

(a) Fails, neglects or refuses to make any return or declaration required by this chapter; or

(b) Makes any incomplete, false or fraudulent return; or

(c) Intentionally or willfully fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or

(d) Fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or

(e) Refuses 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

(f) Fails 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

(g) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

(h) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or

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

(j) Fails to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and Municipal tax withheld, or to knowingly give the Administrator false information; or

(k) Attempts to do anything whatever 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.

(Ord.1968-730. Passed 6-18-68; Ord.1986-33. Passed 7-14-86.)

126.1506 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within the time prescribed in Ohio R.C. 718.06.

(Ord.1968-730. Passed 6-18-68.)

126.1507 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.1968-730. Passed 6-18-68.)

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER-PAYMENTS

126.1701 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 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.

(Ord.1968-730. Passed 6-18-68.)

126.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within the time prescribed in Ohio R.C. 718.06.

(Ord.1968-730. Passed 6-18-68.)

126.1703 AMOUNTS OF LESS THAN ONE DOLLAR.

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

(Ord.1968-730. Passed 6-18-68.)

TAXPAYER RELIEF

126.1902 TAX CREDIT.

(a) When the taxable income of a resident of the Municipality is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to seventy-five percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of this Municipality by the taxable income earned in or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

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

(Ord.1971-850. Passed 12-7-71.)

DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

126.2101 DISBURSEMENT OF FUNDS COLLECTED.

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

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

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be disbursed as provided in Section 126.0101.

(Ord.1968-730. Passed 6-18-68.)

DUTIES AND AUTHORITY OF THE ADMINISTRATOR

126.2301 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 moneys so received.
(Ord.1968-730. Passed 6-18-68.)

126.2302 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 amounts of payments thereof.
(Ord.1968-730. Passed 6-18-68.)

126.2303 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 administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
(Ord.1968-730. Passed 6-18-68.)

126.2304 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 and the provisions of Sections 126.1701 and 126.1505 of this chapter shall apply.
(Ord.1968-730. Passed 6-18-68.)

126.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

(a) Preparation of Return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefor but consents to disclose all information necessary to the preparation thereof, then

the Administrator may prepare such return which, after being signed by such person, may be received by the Administrator as the return of such person

(b) Execution of Return by Administrator. If any taxpayer fails to file a tax return which is required by this chapter within the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, then the Administrator shall make in a reasonable manner such return from his own knowledge and from such information as he can obtain through testimony or otherwise.

(c) Assessment of a Taxpayer by Administrator. The Administrator may calculate and assess any taxpayer for the amount of tax, penalty and interest which is imposed by this chapter and which is due and owing. Such assessment shall be made by the Administrator's issuing summary records to the last known address of the taxpayer of the assessment. This summary shall include the identification of the taxpayer, the character of the liability assessed, the taxation period and the amount of the assessment.

(d) Status of Executed Returns and Assessments. Any return executed by or any assessment made by the Administrator pursuant to this chapter shall be prima-facie good and sufficient for all legal purposes. The Administrator may execute supplemental tax returns and may issue supplemental assessments whenever the Administrator has knowledge derived from any source including the taxpayer's financial data that any executed tax return or assessment is imperfect or incomplete in any material respect.

(e) Limitation of Prosecutions. Neither the Tax Administrator's execution of a return nor the Tax Administrator's assessment of a taxpayer shall start the running of the period of limitations on prosecutions set forth elsewhere in this chapter.

(Ord.1986-33. Passed 7-14-86.)

126.2306 AUTHORITY TO MAKE INVESTIGATIONS.

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.

(Ord.1968-730. Passed 6-18-68.)

126.2307 AUTHORITY TO COMPEL PRODUCTIONS 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.
(Ord.1968-730. Passed 6-18-68.)

126.2308 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 Section 126.1505 hereof.
(Ord.1968-730. Passed 6-18-68.)

126.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000); or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

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.
(Ord.1968-730. Passed 6-18-68.)

126.2310 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.

(Ord.1968-730. Passed 6-18-68.)

126.2311 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Municipality, having already entered into an agreement for the establishment of a Regional Council of Governments, pursuant to Ordinance No.1971-832, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency," the Board of Trustees of such Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the Municipality, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of such agency through the Administrator of such agency. Provided, however, the Administrator of such Agency shall have no authority to abate penalties or interest provided for in Section 126.1501 and Section 126.1502 hereunder.

(Ord.1971-850. Passed 12-7-71.)

BOARD OF REVIEW

126.2501 BOARD OF REVIEW ESTABLISHED.

(a) A Board of Review, consisting of the Mayor, or the Mayor's designee, the Director of Law, or the Director of Law's designee, and one Village resident who shall be appointed by the Mayor for a one-year term is hereby created. The Board shall select, each for a one-year term, one of its members to serve as Chairman and one to serve as Secretary. The 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 126.2309 shall apply to such matters as may be heard before the Board. The Board's records are not open to public inspection nor are the meetings subject to the State open meeting law.

(b) Any person dissatisfied with any ruling or decision of the Administrator which was made under the authority conferred by this chapter and who has filed the required returns or other documents pertaining to the contested issue, may appeal therefrom in writing to the Board of Review within thirty calendar days from the issuance of such ruling or decision by the Administrator. The appeal must state the alleged errors in the Administrator's ruling or decision. The Board must schedule a hearing within forty-five calendar days of receiving the appeal unless the taxpayer expressly waives the hearing and chooses instead to permit the Board to render its decision on writings submitted by the taxpayer and the Administrator. If the taxpayer does not waive the hearing, the taxpayer is entitled to appear before the Board and bring representation of his choosing. The records of the hearing are not open to the public nor is the hearing subject to the State's open meeting law. The Board shall have jurisdiction to affirm, reverse or

modify any such ruling or decision, or any part thereof. The Board must issue its written decision within thirty calendar days after the final hearing and send a notice of its decision by ordinary mail to the taxpayer/appellant within fifteen calendar days after issuing its decision. If the Board fails to comply with the provisions of this section, the taxpayer's appeal will default in favor of the taxpayer but the default will not be on the merits of the issues.

(c) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction as provided by law within thirty (30) calendar days from the date of the Board's ruling. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals within thirty calendar days from the date of the Board's ruling.

(Ord. 2001-39. Passed 5-14-01; Ord. 2005-44. Passed 7-11-05.)

126.2502 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.1968-730. Passed 6-18-68.)

126.2503 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord.1968-730. Passed 6-18-68.)

OTHER PROVISIONS

126.2701 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 parts 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 thereof not been included herein.
(Ord.1968-730. Passed 6-18-68.)

126.2702 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 and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 126.1701, 126.1702, 126.1703, 126.1505, 126.1506 and 126.1507 hereof.

(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 126.1101 and 126.1302 of this chapter as though the same were continuing.
(Ord.1968-730. Passed 6-18-68.)