

## **ORDINANCE NO. 2007-16**

### **AN ORDINANCE AMENDING THE INCOME TAX CODE FOR THE VILLAGE OF GALENA REQUIRING MANDATORY DISCLOSURE OF RENTAL OCCUPANTS.**

**WHEREAS**, Council has previously adopted Ordinance Number 85-08 otherwise known as the Income Tax Code for the Village of Galena, such Ordinance having been adopted on or about July 15, 1996 and,

**WHEREAS**, Council having determined that it is necessary to add a provision to such Income Tax Code requiring owners of rental property to disclose the identity of rental tenants within the Village.

**NOW THEREFORE BE IT ORDAINED BY THE VILLAGE OF GALENA, DELAWARE COUNTY, OHIO AS FOLLOWS:**

**Section 1:** Commencing with the effective date of this Ordinance, each and ever owner of rental property in the Village of Galena shall:

a. Complete a written report in a format satisfactory and approved by the Village Fiscal Officer no later than December 1<sup>st</sup> of each year identifying the physical address of each and every rental property which the owner owned, in whole or in part during any part of the current calendar year and provide the name and address of any tenant who paid or is obligated to pay rent during the year of the report.

b. The report shall additionally disclose the name and address of any tenants who occupied the premises for any portion of the year and if they have relocated, the forwarding address of such tenant.

c. Any person who fails to file this report and who enters a plea to a violation thereof or is found guilty thereof shall be determined to be guilty of a minor misdemeanor and subject to a fine in the amount of one hundred dollars (\$100.00). Each day such violation shall constitute a separate offense.

**Section 2:** The Fiscal Officer is authorized to adjust and renumber the Income Tax Code as the Fiscal Officer deems appropriate to incorporate the above requirements.

**Section 3:** That it is hereby found and determined that all formal actions of this Council concerning and relating to passage of this Ordinance were adopted in an open meeting of the Council and that all deliberations of this Council and any of the decision making bodies of the Village of Galena which resulted in such formal actions were in meeting so open to the public in compliance with all legal requirements of the Village of Galena, Delaware County, Ohio.

Section 4: That this *Ordinance* shall take effect upon the earliest possible date permitted by law.

VOTES ON RULE SUSPENSION:

Y \_\_\_\_\_ N \_\_\_\_\_

VOTES ON ORDINANCE NO.:2007-16

Y 4 N 0

Thomas W. Hopper, Mayor 11-26-07  
Thomas W. Hopper, Mayor Date

Marty Mazzie 11-26-07  
Marty Mazzie Fiscal Officer Date

## TITLE EIGHT - TAXATION

### Chap. 181. Income Tax

INCLUDES CHANGES PER ORDINANCE NO. 96-04(A) ENACTED JULY 15,  
1996

---

#### CHAPTER 181 Income Tax

- |                                |                                 |
|--------------------------------|---------------------------------|
| 181.01 Purpose.                | 181.12 Board of Review.         |
| 181.02 Definition.             | 181.13 Allocation of funds.     |
| 181.03 Imposition of tax.      | 181.15 Saving clause.           |
| 181.04 Effective period.       | 181.16 Collection of tax after. |
| 181.05 Return and payment.     | termination of chapter.         |
| of tax.                        |                                 |
| 181.06 Collection at source.   | 181.17 Personal liability.      |
| 181.07 Declarations.           | 181.18 Contract validity.       |
| 181.08 Duties of the           | 181.19 Mandatory Registration.  |
| Treasurer.                     | 181.99 Penalty                  |
| 181.09 Investigative powers    |                                 |
| the Treasurer.                 |                                 |
| 181.10 Interest and penalties. |                                 |
| 181.11 Collection of unpaid    |                                 |
| taxes and refunds of           |                                 |
| overpayments.                  |                                 |

#### CROSS REFERENCES

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

---

#### 181.01 PURPOSE.

To provide funds for the purpose of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal service and facilities and capital improvements of the Village there shall be, and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. (Ord. 85-08. Passed 12-10-85).

#### 181.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include plural and the masculine gender shall include feminine gender and neuter gender.

#### 181.02            ADMINISTRATIVE CODE

- (a) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons (Ord. 85-08. Passed 12-10-85).

- (b) "Board of Review" means the Board created by and constituted as provided in Section 13 of this Ordinance. (Ord. 85-08. Passed 12-10-85).
- (c) "Business" means any enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, estate, guardianship, association, corporation, or any other entity. (Ord. 85-08. Passed 12-10-85).
- (d) "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. 85-08. Passed 12-10-85).
- (e) "Treasurer" means the Treasurer of the Village of Galena,; or the person executing the duties of the aforesaid Treasurer.
- (f) "Employee" means one who works for wages, salary, commission or (Ord. 85-08. Passed 12-10-85).
- (g) "Employer" means an individual, partnership, association, corporation, governmental body, governmental unit, governmental agency, fiduciary, trust, estate, guardianship, or any other entity whether or not organized or operating a business for profit, which employs one or more persons for a salary, wage, commission, or any other basis of compensation. (Ord. 85-08. Passed 12-10-85).
- (h) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31.
- (i) "Gross Receipts" means the total income from any source whatsoever.
- (j) "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 taxpayer 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; and otherwise adjusted to the requirements of this chapter.
- (k) "Non-resident" means an individual domiciled outside the Village of Galena. (Ord. 85-08. Passed 12-10-85).
- (l) "Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village of Galena. (Ord. 85-05. Passed 12-10-85).
- (m) "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.
- (n) "Place of Business" means any Bond 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. 85-08. Passed 12-10-85).
- (o) "Resident" means an individual domiciled in the Village of Galena.
- (p) "Resident" unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village of Galena.
- (q) "Taxable income" means 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.
- (r) "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 of which such return is required to be made.
- (s) "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.

- (t) "Village" means the Village of Galena, Ohio. (Ordinance 85-08. Passed 12-10-85).

### **181.03 IMPOSITION OF TAX.**

- (a) An annual tax for the purposes set forth in Section 181.01 hereof shall be and hereby is levied on and after January 1, 1995, at the rate of one percent (1%) on the following. (Ord. 94-02. Passed 7-18-94):
- (1) On all salaries, wages, tips, gratuities and moneys gained by gambling or gaming venture, and moneys gained by illegal activities, commissions and/or any other compensation earned or received during the effective period of this chapter by residents of the Village.
  - (2) On all salaries, wages, tips, gratuities and moneys gained by gambling or gaming ventures, and moneys gained by illegal activities, commissions and/or any other compensation earned or received during the effective period of this chapter by nonresidents for work done or services performed or rendered, or participation in any activity or activities, including purchase of lottery ticket or tickets, participation in any contest or participation in any gambling or gaming activity or any illegal activity in the Village of Galena, Ohio. (Ord. 85-08. Passed 12-10-85).
  - (3)
    - A. On the portion attributable to the Village of Galena of net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Galena.
    - B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
  - (4)
    - A. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all non-residents unincorporated business, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village whether or not such unincorporated business entity has an office or place of business in the Village.
    - B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
  - (5) On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village, whether or not such corporations have an office or place of business in the Village of Galena.
- (b) The portion of the net profits attributable to the Village of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village shall be determined as provided in Ohio R. C. 718.02 and in accordance with the rules and regulations adopted by the Treasurer pursuant to this chapter.

- (c) **Operating Loss Carry Forward.**
  - (1) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1996 allocable to the Village may be applied against the portion of the profit of succeeding year(s) allocable to the Village until, exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
  - (2) The portion of a net operating loss sustained shall be allocated to the Village in the same manner as provided herein for allocating net profits to the Village.
  - (3) The Treasurer shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.
- (d) **Consolidated Returns.**
  - (1) Filing of consolidated returns may be permitted or required in accordance with Rules and Regulations prescribed by the Treasurer.
  - (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business the Treasurer shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Treasurer finds net profits are not properly allocated to the Village by reason of transaction 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 Village.
- (e) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified on Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section.
- (f) Payment made to any employee by an employer as a vacation wage or as a bonus is taxable income.
- (g) In the taxation of income which is subject to tax, if the books and records of a taxpayer conducting a business both within and without the boundaries of the Village disclose with reasonable accuracy that portion of its net profit which is attributable to that part of the business conduct within the Village, then only that portion shall be considered as having a taxable situs in the Village for purposes of being taxable and taxed by the Village. Absent such records, net profit from a business conducted both within and without the boundaries of the Village shall be conclusively presumed to have a taxable situs in the Village for purposes of being taxable and taxed by the Village in the same proportion as the average, the means determining which is hereinbelow described:
  - (1) The average net book value of the real property and the tangible personal property owned or used by the taxpayer in the business in the Village during the taxable period to the average net book value of all the real property and tangible personal property owned or used both the taxpayer in the business during the same period, wherever situated. As used in this subsection, "real property" included property rented or leased by the taxpayer and the value of such property shall be determined by



return shall be filed within four months from the end of such fiscal year. The Treasurer is hereby authorized to provide by regulation that the return of an employer, showing the amount of tax deducted by the employer from the salary, wages, commissions, bonuses, vacation pay or other compensation of any employee and paid by the employer to the Treasurer shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter is such salary, wages, commissions, bonuses, vacation pay or other compensation. A husband and wife, in any tax year, may elect to file separate or joint returns; if joint returns are filed, a husband or wife may offset losses from any business when conducted in this Village.

- (b) The return shall be filed with the Treasurer on a form or forms furnished by or obtainable upon request from such Treasurer setting forth:
  - (1) The aggregate amounts of salaries, wages, commissions, rents and other compensation, including but not limited to vacation pay and bonuses earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Treasurer may require. When the return is made for a fiscal year or other period different from the calendar year, however, the return shall be made on or before the last day of the fourth month after the close of such fiscal year or other period. (Ord. 85-08. Passed 12-10-85).
  - (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 Treasurer may require.
  - (4) Each taxpayer who resides within the Village is accountable for taxes on all his or her income whether earned in or out of the Village and therefore may deduct losses whether suffered within or without the Village. A nonresident's income is only subject to the Village Income Tax to the extent that income was earned within the Village and therefore the taxpayer can deduct only those losses by his or her business within the Village. These same provisions shall apply to joint returns filed by husband and wife.
  - (5) Amount received as moving expense reimbursement are includable in full as taxable income.
  - (6) No deduction is permitted against income subject to tax under this chapter for any Form 1040, Schedule A itemized deduction.
- (c) The Treasurer 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. The Treasurer 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.
- (d) (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Treasurer the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.06 of this chapter, or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.14 hereof, 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.
- (2) A taxpayer who has overpaid the amount of tax to which the Village 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 or less than one dollar (\$1.00) shall be allocated or refunded.
- (e) (1) Amended Returns. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim or refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Treasurer. A taxpayer may not change the method of accounting or apportionment or 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 Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village 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. No refund shall be allowable unless a written request is presented to the office of the Treasurer within three years from the date of the filing of the return.

#### **181.06 COLLECTION AT SOURCE**

- (a) In accordance with Rules and Regulations prescribed by the Treasurer, each employer within or doing business within the Village shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of the gross salaries, wages, commissions or other compensation due by the employer to such employee and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Treasurer the amount of taxes so deducted unless the employer elects, in writing, to remit the tax withheld on a monthly basis in which case the returns and payments shall be due on or before the last day of the month following the month in which the tax was withheld. Such returns shall be on a form or forms prescribed by or acceptable to the Treasurer and shall be subject to the Rules and Regulations prescribed therefore by the Treasurer. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.
- (b) Such employer in collecting the tax shall be deemed to hold the same until payment is made by such employer to the Village as a Trustee for the benefits of the Village and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer. (Ord. 85-08. Passed 12-10-85).
- (c) Each employer who maintains a branch place of business in the Village along with other branches outside the Village shall withhold the tax from employees residing in the Village but working at another branch of the employer, even though payroll records and place of payment of wages, earning, bonuses, and vacation pay are outside the Village.

- (d) Each employer doing business within the Village on a temporary basis shall on a monthly basis, pay to the Village all income taxes withheld or required to be withheld regardless of the amount of taxes involved. Such payment shall be paid to the Village within fifteen days of the end of each calendar month. An employer is "doing business within the Village on a temporary basis" when the employer maintains a place of business in the Village, or does business in the Village, for a period which the employer does not expect to exceed one year.
- (e) Each employee shall make and file a return on a form furnished by the Treasurer, showing the amounts of tax deducted by the employer from the salaries, wages, commissions, vacation pay, bonuses or any other compensation of any employee, payable and/or paid by the employee to the Village. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this chapter is the full compensation reported to the Village on the return of the employer.
- (f) Each employer shall, on or before January 31, unless the employer makes written request for thirty days extension which request is granted by the Treasurer, following any calendar year in which such deductions have been made or should have been made by any employer, file with the Treasurer an information return, on a form furnished by the Treasurer, for each employee from whose income tax has been or should have been withheld, showing the name and address of the employee and the total amount of salary, wages, commissions, bonuses, vacation pay and any other compensation paid to the employee during the year, and the amount of Village income tax withheld from each employee.

#### **181.07 DECLARATIONS.**

- (a) Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with Section 181.06 hereof, such person need not file a declaration. In each tax year every person who anticipates any taxable income, or who engages in any business, profession, enterprise, or activity shall file a declaration setting forth such estimated income, or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any, if the tax can reasonably be expected to exceed fifty dollars (\$50.00).
- (b)
  - (1) Such declaration shall be filed on or before April 15 of each year during the life of this chapter or within four months of the date the taxpayer becomes subject to tax for the first time.
  - (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (c)
  - (1) Such declaration shall be filed upon a form furnished by or obtainable from the Treasurer, provided, however, credit shall be taken for the Village tax to be withheld from any portion of such income.
  - (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent

quarterly payment date as provided for herein.

(d) Such declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth day of the seventh, tenth, and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) On or before the fifteenth 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 shall be paid therewith in accordance with the provisions of Section 181.05.

#### **181.08 DUTIES OF THE TREASURER.**

- (a)
  - (1) It shall be the duty of the Treasurer to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers: to keep an accurate record thereof; and to report all monies so received.
  - (2) It shall be the duty of the Treasurer to enforce payment of all taxes owing the Village, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any returns, including taxes withheld, and to show the dates and amounts payments thereof.
- (b) The Treasurer is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter including provisions for the re-examination and correction of returns. The Treasurer 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 Treasurer that, due to certain hardships, conditions he/she 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 Section 181.11 and 181.99 shall apply.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Treasurer may determine the amount of tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (d) Subject to the consent of the Board of Review or pursuant to regulation approved by such Board, the Treasurer shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10. (Ord. 85-08. Passed 12-10-85).

#### **181.09 INVESTIGATIVE POWERS OF THE TREASURER.**

- (a) The Treasurer, or any authorized employee, is hereby authorized to examine

- the books, papers, records and Federal income tax return of any employer or of any taxpayer or person subject to, or whom the Treasurer 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 Treasurer, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.
- (b) The Treasurer is hereby authorized to order any person presumed to have knowledge of the facts to appear before him/her 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 person before him/her, whether as parties or witnesses, whenever he/she believes such persons have knowledge of such income or information pertinent to such inquiry.
  - (c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by an officer, agent or employee of a person subject to the tax or required to withhold tax for the failure of any person to comply with provisions of this section or with an order or subpoena of the Treasurer authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.
  - (d) 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 chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine and penalty of five hundred dollars (\$500.00) and imprisonment for not more than six months. Each disclosure shall constitute a separate offense.  
In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of any offense punishable by immediate dismissal.
  - (e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid. (Ord. 85-08. Passed 12-10-85).

#### **181.10 INTEREST AND PENALTIES.**

- (a) All taxes imposed by this chapter which remain unpaid after having become due shall bear interest in addition to the amount of unpaid tax at the rate of two percent (2%) per month or any fraction thereof and the taxpayer upon whom such interest is imposed shall be liable, in addition thereto, to a penalty of fifteen percent (15%) of the amount of the unpaid tax.
- (b) Each employer who fails to remit taxes withheld, or which should have been withheld in accordance with the provisions of this chapter, shall be liable to the Village as a penalty therefore five percent (5%) per month of the balance of such unremitted taxes; in no event shall the penalty be less than five dollars (\$5.00) for each quarter of any tax year and continuing thereafter until paid.
- (c) A penalty shall not be assessed on any additional tax assessment made by

- the Treasurer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Treasurer.
- (d) Neither penalty nor interest shall, in the absence of fraud, be assessed on additional tax assessment resulting from a Federal (IRS) Audit, provided an amended return is filed and the additional Village income tax is paid within three months after final determination of the Federal (IRS) tax liability.
  - (e) Upon recommendation of the Treasurer, the Board of Review may abate penalty or interest or both, or upon appeal from the refusal of the Treasurer to recommend abatement of either penalty or interest or both. (Ord. 85-08. Passed 12-10-85).

#### **181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.**

- (a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amounts are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or 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 limitation, the period within which an additional assessment may be made by the Treasurer shall be one year from the time of the final determination of the Federal tax liability.
- (b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date which such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later.
- (c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 85-08. Passed 12-10-85).

#### **181.12 BOARD OF REVIEW.**

- (a) A Board of Review, consisting of the Mayor, as chairman, and two members of Council to be appointed by the Mayor and approved by Council is hereby created. A majority of the members of the Board constitutes 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 181.09 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.
- (b) All rules and regulations and amendments or changes thereto, which are adopted by the Treasurer 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 Treasurer, and at the request of the taxpayer or Treasurer, its empowered to substitute alternate methods of allocation.
- (c) Any person dissatisfied with any ruling or decision of the Treasurer 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 Treasurer, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

### **181.13 ALLOCATION OF FUNDS.**

The funds collected under the provisions of this chapter shall be allocated in such manner as prescribed by ordinances adopted by Council.

### **181.15 SAVING CLAUSE.**

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionally, illegality or invalidity shall effect only such clause, sentence, section or part of this chapter and shall not effect 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. 85-08. Passed 12-10-85).

### **181.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

- (a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.99.
- (b) Annual returns due for all or any part of the last effective year of this Ordinance shall be due on the date provided in Sections 181.05 and 181.06 as though (Ord. 85-08. Passed 12-10-85).

### **181.17 PERSONAL LIABILITY FOR FILINGS AND WITHHOLDINGS.**

If the taxpayer is not an individual, the officer, partner, fiduciary or any other person having control or supervision of, or having the responsibility for filing any tax return or paying any taxes or withholdings to the Village, shall be personally liable for the failure to file any report or tax return or the failure to pay the taxes or withholdings due as required in this chapter; the dissolution of a corporation or the termination of any legal entity does not discharge the personal liability of the officer, partner, fiduciary or any other person having control or supervision of, or having the responsibility for filing any report or tax return or for paying any taxes or withholdings.

### **181.18 CONTRACT VALIDITY.**

No contract on behalf of the Village for work improvements of the Village shall be valid or binding on the Village unless the contract contains the following provisions:

"Said \_\_\_\_\_ hereby further agrees  
(contractor)

to withhold all Village income taxes due or payable under the provisions of the Income Tax Ordinance of the Village of Galena, Ohio, for all compensation paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such income taxes due the Village of Galena, Ohio under such Income Tax Ordinance for services performed under this contract".

#### **181.19 MANDATORY REGISTRATION.**

- (a) Each new resident of the Village of Galena, Ohio shall register with the office of the Treasurer of the Village within thirty days of establishing residence in the Village in order that the Treasurer will be able to maintain adequate and proper income tax records with regard to each resident of the Village.
- (b) Each employer, agent, contractor, sub-contractor who does work or employs employees in the Village of Galena, Ohio from and after thirty days of the enactment of this section, shall within five days prior to commencement of such work or employment shall register with the Treasurer and present to, and thereafter maintain up to date an accurate list of the full names, addresses, social security numbers or federal employment I.D. numbers, of all employees, sub-contractors, contractors, agents or others to whom the employer shall pay moneys for services rendered to the employer or on the employer's behalf and whose wages, earnings, profits or income are not at that time already subject to the withholdings of the Galena Village Income Tax.
- (c) From and after thirty days of the enactment of this section, each landlord, owner of real property, or agent of the landlord or owner of real property who rents any real property in the Village of Galena, Ohio to a tenant or tenants shall provide an up to date list to the office of the Treasurer, and shall maintain the list as updated, of the tenants.
- (d) Any person who violates this section or any part thereof, shall be subject to a fine of five dollars (\$5.00) for each violation; the fine shall be separate for each day the person remains and is in violation.

#### **181.99 PENALTY.**

- (a) Any person who shall:
  - (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
  - (2) Make any incomplete, false, or fraudulent return, or;
  - (3) 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 tax from his employees or remit such withholding to the Treasurer; or
  - (5) Refuse to permit the Treasurer or any duly authorized agent or employee to examine his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer; or
  - (6) Fail to appear before the Treasurer 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 Treasurer; or
  - (7) Refuse to disclose to the Treasurer any information with respect to the income or net profits of a taxized; hereby or
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Treasurer authorized; or
  - (9) Give to an employer false information as to his true name, correct social security number and residence address or fail to promptly notify an employer of any change in residence address and date thereof; or
  - (10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and the Village of Galena tax withheld, or to knowingly give the Treasurer false information; or

- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter. Shall be guilty of a misdemeanor and *shall be fined* not more than five hundred (\$500.00) or imprisoned not more than six (6) months or both, for each offense.
- (b) All prosecutions under this section must be connected within three years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of the time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.
-