

ORDINANCE NO. 7 - 2010
VILLAGE OF McCLURE, HENRY COUNTY, OHIO

**ORDINANCE REPEALING THE VILLAGE TAX CODE TAX CREDIT
AND DECLARING AN EMERGENCY**

WHEREAS, the Village of McClure is a statutory village located in Henry County, Ohio, and

WHEREAS, the Village Council imposes an income tax of one-percent against taxable income earned within the Village, pursuant to Village of McClure Ordinance 564, passed March 23, 2000, and amended in 2003, 2004, 2009 and 2010, and

WHEREAS, the Income Tax Ordinances have been codified in Chapter 181 of the Codified Ordinances of the Village of McClure, Ohio, and

WHEREAS, in December, 2009, the Village Council repealed Codified Ordinance 181.15, effectively eliminating the previously established one-half percent credit against the income tax due under the Ordinance, and

WHEREAS, in May, 2010, the Village Council amended several sections of the Village Tax Code, including Section 181.15 (a) of the Codified Ordinances. The May, 2010, amendment to Section 181.15 (a) is, as a result of previous action by the Village Council, ineffective, as Section 181.15 did not and does not exist.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of McClure, Henry County, Ohio that:

Section 1: That Codified Ordinance Section 181.15 titled: Reduced Tax Credit to Residents, previously repealed by this Council, shall remain repealed, and Ordinance __-2010, Sections 6 & 7, are ineffective and as such, to the extent adopted or created by this Council, are repealed.

Section 2: When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality, or in a joint economic development district established pursuant to Ohio R.C. 715.70, as amended, on the same income taxable under this Chapter, such resident shall not be allowed a credit, in any amount, of income tax paid on such taxable income to such other municipality.

Section 3: That this measure is an emergency measure necessary for the immediate preservation of the health, safety and welfare of the Village and its residents. The reason for such emergency is that RITA is scheduled to begin administration of Village income tax collections beginning July 1, 2010. Such clarification must necessarily be made prior to that date to ensure proper administration and collection. The current council meeting schedule does not permit three readings prior to that date. Further, failure to adopt changes would likely result in delayed income tax collections - delays the Village cannot afford in light of its current fiscal difficulties.

Section 4: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that results in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of Ohio.

Vote on Emergency: Ayes _____ Nays _____ Abstain _____

Vote on Passage: Ayes _____ Nays _____ Abstain _____

_____, Mayor _____, President of Council

_____, Clerk

^{Ordinance}
RESOLUTION NO. 6 - 2010
VILLAGE OF McCLURE, HENRY COUNTY, OHIO

**ORDINANCE AMENDING THE VILLAGE TAX CODE, SECTIONS 181.03, 181.06,
181.12 AND 181.15, AND DECLARING AN EMERGENCY**

WHEREAS, the Village of McClure imposes an income tax of one-percent against taxable income earned within the Village, pursuant to Village of McClure Ordinance 564, passed March 23, 2000, and amended in 2003, 2004, and 2009, and

WHEREAS, the income tax ordinances have been codified at Chapter 181 of the Codified Ordinances of the Village of McClure, Ohio, and

WHEREAS, the Village has joined the Council of Governments and the Regional Income Tax Agency (RITA) for purposes of administering tax collection for the Village, effective beginning July 1, 2010, and

WHEREAS, RITA has recommended certain changes to Chapter 181 in order to comply with Ohio law and ease collection of income tax.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of McClure, Henry County, Ohio that:

Section 1: That Section 181.03 (a)(2) of the Village of McClure, Ohio shall be amended to read as follows:

- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this Chapter by non-residents for work done or services performed or rendered in this municipality. This municipality shall not tax the salaries, wages, commissions or other compensation of a non-resident individual if all of the following apply:
 - A. The compensation is paid for personal services performed by the individual in the municipality on twelve (12) or fewer days during the calendar year;
 - B. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the municipality and the individual pays tax on compensation to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;
 - C. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainer or sports event, or an employee of such a promoter as defined by the municipality.

Section 2: That all other provisions of Section 181.03 remain unchanged.

Section 3: That Subsection (1) of Section 181.06 (a) of the Codified Ordinances of the Village of McClure, Ohio shall be repealed. Section 181.06 shall remain otherwise unchanged.

Section 4: That Section 181.12 (c) of the Codified Ordinances of the Village of McClure, Ohio, shall be amended to read as follows:

C. There shall be imposed a fifty dollar (\$50.00) penalty assessed upon any person that fails, neglects or refused to comply with the applicable filing deadline of each tax year. Any penalty assessed under this Subsection shall be in addition to the penalties and interest contained in Sections 181.10 and 181.11.

Section 5: That all other provisions of Section 181.12 shall remain unchanged.

Section 6: That Section 181.15 (a) of the Codified Ordinances of the Village of McClure, Ohio, shall be amended to read as follows:

A. When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality, or in a joint economic development district established pursuant to Ohio R.C. 715.70, as amended, 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 fifty percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Village by the taxable income earned in or attributable to the municipality of employment or business activity, but, in any event, such credit shall not be applied to a rate in excess of one percent of the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.


Section 7: That all other provisions of Section 181.15 shall remain unchanged.

Section 8: That this measure is an emergency measure necessary for the immediate preservation of the health, safety and welfare of the Village and its residents. The reason for such emergency is that RITA is scheduled to begin administration of Village income tax collections beginning July 1, 2010. Such changes must necessarily be in place prior to that date. The current council meeting schedule does not permit three readings prior to that date. Further, failure to adopt changes would likely result in delayed income tax collections - delays the Village cannot afford in light of its current fiscal difficulties.

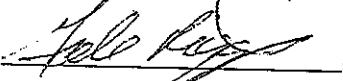
Section 9: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that results in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of Ohio.

Vote on Emergency: Ayes 5 Nays 0 Abstain _____

Vote on Passage: Ayes 5 Nays 0 Abstain _____

 Mayor

 Clerk

 President of Council

ORDINANCE NO. 9 - 2009

VILLAGE OF McCLURE, HENRY COUNTY, OHIO

**AN ORDINANCE REPEALING VILLAGE OF McCLURE
CODIFIED ORDINANCE SECTION 181.15**

WHEREAS, Ohio Revised Code Section 718.01 authorizes the Village Council to impose a uniform income tax of not greater than one percent, and

WHEREAS, the Council of the Village of McClure, Ohio, passed Ordinance number 564 on March 23, 2000, establishing an income tax of one percent against income earned in the Village or earned by Village residents, and established a credit for Village residents against income tax owed to the Village and paid to another municipality not to exceed one-half percent, and

WHEREAS, the Village of McClure has experienced since the passage of Ordinance 564, and continues to experience, financial difficulties that have resulted in a declaration by the State of Ohio of fiscal emergency.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of McClure, Henry County, Ohio as follows:


Section 1: The Village of McClure Codified Ordinance 181.15 is hereby repealed.

Section 2: That this Ordinance shall take effect January 1, 2010.


Section 3: That all other Sections of Chapter 181 of the Village of McClure Codified Ordinance shall remain in full force and effect.

Section 4: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any other committees that results in such formal action were in meetings open to the public in compliance with all legal requirements including Section 121.22 of the Revised Code of Ohio.

Adopted: 12-14-09


MAYOR

ATTEST:


Clerk

TITLE NINE - Taxation
 Chap. 181. Income Tax.
 Chap. 183. Motor Vehicle License Tax.

CHAPTER 181
Income Tax

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|---|--|
| 181.01 Purpose. | 181.10 Interest and penalties. |
| 181.02 Definitions. | 181.11 Collection of unpaid taxes and refunds of overpayments. |
| 181.03 Imposition of tax. | 181.12 Violations; penalties. |
| 181.04 Effective period. | 181.13 Board of Review. |
| 181.05 Return and payment of tax. | 181.14 Allocation of funds. |
| 181.06 Collection at source. | 181.15 Reduced tax credit to residents. |
| 181.07 Declarations. | 181.16 Saving clause. |
| 181.08 Duties of the Administrator. | 181.17 Collection of tax after termination of chapter. |
| 181.09 Investigative powers of the Administrator; penalty for divulging confidential information. | 181.18 Landlord and tenant responsibilities. |

CROSS REFERENCES

- Power to levy income tax - see Ohio Const., Art. XVIII, Sec. 3
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income tax - see Ohio R.C. Ch. 718
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181.01 PURPOSE.

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of this municipality there shall be and is hereby levied, a tax on salaries, wages commissions and other compensation, and on net profits as hereinafter provided.
 (Ord. 564. Passed 3-23-00.)

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.

- (a) "Administrator" means the individual designated by this chapter whether appointed or elected, to administer and enforce the provisions this chapter.
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 181.13.
- (d) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
- (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (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, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.
- (k) "Nonresident" means an individual domiciled outside this municipality.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within this municipality.
- (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 shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (n) "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.
- (o) "Resident" means an individual domiciled in this municipality.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within this municipality.

- (q) "Taxable income" means wages, salaries, and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (r) "Taxable year" means the calendar year, or the fiscal year upon the basis of which net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (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) Forms of words. The singular shall include the plural, and the masculine shall include the feminine and the neuter. (Ord. 564. Passed 3-23-00.)

181.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 181.16, an annual tax for the purposes specified in Section 181.01 hereof shall be imposed on and after January 1, 2000 at the rate of one-percent (1%) per annum upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of the chapter by residents of this municipality. (Ord. 564. Passed 3-23-00.)
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by nonresidents for work done or services performed or rendered in this municipality. This municipality shall not tax the salaries, wages, commissions or other compensation of an individual if all of the following apply:
 - A. The individual does not reside in the municipality;
 - B. The compensation is paid for personal services performed by the individual in the municipality on twelve (12) or fewer days during the calendar year;
 - C. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the municipality and the individual pays tax on compensation to the municipality, if any, in which the employer's principal place of business is located, and no portion of that tax is refunded to the individual;
 - D. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter as defined by the municipality. (Ord. 03-12. Passed 12-23-03.)
- (3)
 - A. On the portion attributable to this municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this municipality.
 - B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this municipality and not levied against such unincorporated business entity by this municipality.

- (4) A. On the portion attributable to this municipality of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sale made, work done, or services performed or rendered and business or other activities conducted in this municipality, whether or not such unincorporated business entity has an office or place of business in this municipality.
- B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to this municipality and not levied against such unincorporated business entity by this municipality.
- (5) On the portion attributable to this municipality, of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this municipality, whether or not such corporations have an office or place of business in this municipality. (Ord. 564. Passed 3-23-00.)
- (6) On all income in excess of four thousand nine hundred ninety-nine dollars (\$4,999) derived anywhere from gaming, wagering, lotteries or schemes of chance by residents of this municipality or by nonresidents of this municipality when the income derived from gaming, wagering, lotteries or schemes of chance is won or received from sources within this municipality. (Ord. 5-04. Passed 5-13-04.)

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

(c) Operating Loss Carry-Forward.

- (1) The portion of a net operating loss sustained in any taxable year subsequent to 2000 allocable to this municipality may be applied against the portion of the profit of succeeding years allocable to this municipality, until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.
- (2) The portion of a net operating loss sustained shall be allocated to this municipality in the same manner as provided herein for allocating net profits to this municipality.
- (3) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(d) Consolidated Returns.

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

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

(e) Exception. 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 in Ohio R.C. 718.01 to the extent such net profits are exempted from municipal income taxes under said section. (Ord. 564. Passed 3-23-00.)

181.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 2000. (Ord. 564. Passed 3-23-00.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this chapter, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return on an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by the employer or employers to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator, or upon any other form or forms, which set forth the following information:

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

- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns or other information as the Administrator may require.

(c) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period 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. Extensions granted by the Internal Revenue Service for the filing of the federal income tax return shall be granted if a copy of the request for extension is filed with the Administrator no later than the due date of the tax return. The Administrator may deny the taxpayer's request for extension if the taxpayer:

- (1) Fails to file the request no later than the original due date of the tax return;
- (2) Fails to file a copy of the federal extension request;
- (3) Owes the municipality any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
- (4) Has failed to file any required income tax return, report or other related document for a prior tax period.

No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(Ord. 03-12. Passed 12-23-03.)

- (d)
 - (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.06 of this chapter, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07 of this chapter, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with 181.15 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 said return.
 - (2) A taxpayer who has overpaid the amount of tax to which this municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

- (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 a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this municipality based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment. (Ord. 564. Passed 3-23-00.)

181.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within this municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one-percent (1%) of the gross salaries, wages, commissions or other compensation due by the employer to the employee or the tips or gratuities reported to the employer by each employee for social security or federal income tax purposes and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether such taxes have in fact been withheld. (Ord. 564. Passed 3-23-00.)

- (1) A nonresident employer, agent of such an employer or other taxpayer that is not situated in the municipality shall not be required to deduct and withhold taxes from the taxable income of an individual unless the total amount of tax required to be deducted and withheld for the municipality on account of all of the employer's employees or all of the other payer's payees exceeds one hundred fifty dollars (\$150.00) for a calendar year. When the amount exceeds one hundred fifty dollars (\$150.00) for a calendar year, the employer, agent of such an employer or other payer must deduct and withhold taxes in each ensuing year even if the amount required to be deducted and withheld in each of those ensuing years is one hundred fifty dollars (\$150.00) or less until such time that the tax so deducted and withheld is one hundred fifty dollars (\$150.00) or less for three (3) consecutive years. (Ord. 03-12. Passed 12-23-03.)

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

(c) On or before the fifteenth day of February of each year beginning with the year 2001, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

(d) The tax Administrator for good cause may require immediate returns and payments to be submitted to his office. (Ord. 564. Passed 3-23-00.)

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 this municipality in accordance with Section 181.06 hereof, such person need not file a declaration.

- (b) (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
- (c) (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for this municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.15 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration, or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date and provided for herein.

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

(e) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due this municipality shall be paid therewith in accordance with the provisions of 181.05 hereof. (Ord. 564. Passed 3-23-00.)

181.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) It shall be the duty of the Village Clerk, hereinafter designated the Administrator, to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing this municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.
- (b) Said Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
- (1) 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.
- (2) 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 181.11 and 181.12 shall apply.
- (c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due this municipality from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (d) Subject to the consent of the Board of Review or pursuant to regulation approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10. (Ord. 564. Passed 3-23-00.)

181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

- (a) The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.
- (b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been reported for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records, and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.12 hereof.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this chapter or authorized by these rules and regulations, shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.
(Ord. 564. Passed 3-23-00.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1.5%) per month or fraction thereof.
(Ord. 03-12. Passed 12-23-03.)

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

- (1) For failure to pay taxes due other than taxes withheld; one and one-half per cent per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees; five per cent per month or fraction thereof.

(c) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the federal tax liability.

(d) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and/or interest, the Board may nevertheless abate penalty or interest, or both.
(Ord. 564. Passed 3-23-00.)

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 a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in subsection (a) hereof.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.
(Ord. 564. Passed 3-23-00.)

181.12 VIOLATIONS; PENALTIES.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this municipality's income tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) Prosecution for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(Ord. 564. Passed 3-23-00.)

(c) There shall be imposed a fifty dollar (\$50.00) penalty on any taxpayer failing, neglecting or refusing to comply with the applicable filing deadline of each tax year. Such taxpayer who continues to fail, neglect or otherwise refuses to comply shall be assessed an additional ten dollar (\$10.00) penalty on the 15th of each month thereafter until such filing is completed. Any penalties assessed under this subsection shall be in addition to the penalties and interest contained in Sections 181.10 and 181.11.

(Ord. 03-12. Passed 12-23-03.)

(d) 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. 564. Passed 3-23-00.)

181.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of a chairman, appointed by the Mayor, one appointed by the Village Treasurer, and the third to be selected by the two so appointed is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.09 hereof 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. The members of the Board of Review shall be electors of the Village of McClure, and shall serve without pay.

(b) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(Ord. 564. Passed 3-23-00.)

(c) Whenever the Administrator issues a decision regarding an income tax obligation that is subject to appeal, the Administrator shall notify the taxpayer, at the same time of the Administrator's decision, of the taxpayer's right to appeal the decision. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom, in writing stating the reason why the decision should be deemed incorrect or unlawful, to the Board of Review within thirty (30) days after the Administrator has issued the decision.

(d) All hearings of the Board of Review shall be conducted privately and the provisions of Section 181.06 with respect 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 of Review on appeal. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request. The taxpayer may represent himself/herself or be represented by another person. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal and send notice by ordinary mail within fifteen (15) days following the issuance of the decision.

(Ord. 03-12. Passed 12-23-03.)

(e) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.

(f) The Board of Review, as created, shall serve during the life of this chapter.
(Ord. 564. Passed 3-23-00.)

181.14 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the General Fund and said funds collected shall be disbursed in the following manner:

- (a) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.
- (b) Eighty percent (80%) of the net available income tax receipts annually received shall be set aside in the General Fund and shall be used to defray operating expenses of the Village.
- (c) Twenty percent (20%) of the net available income tax receipts received annually shall be set aside in the Street and Maintenance Fund.
(Ord. 564. Passed 3-23-00.)

181.15 REDUCED TAX CREDIT TO RESIDENTS.

(a) When the taxable income of a resident of this 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 one-half percent against the tax due the Village of McClure, providing the income tax rate of the other Municipality is equal or greater than one percent (1%). In the event the other municipality imposes a tax rate less than one percent (1%), no credit shall be given against the taxes due to the Village of McClure. 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) Method of Applying for Credit.

- (1) No credit will be given unless the taxpayer claims such on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
- (2) A statement satisfactory to the Administrator from the taxing authority of the municipality to which the taxes are paid that a Village of McClure resident or his employer is paying the tax shall be considered as fulfilling the requirement of this section.
(Ord. 564. Passed 3-23-00.)

181.16 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the Council of this municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 564. Passed 3-23-00.)

181.17 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall begin effective January 1, 2000, and shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 181.11 and 181.12 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 181.05 and 181.06 as though the same were continuing. (Ord. 564. Passed 3-23-00.)

181.18 LANDLORD AND TENANT RESPONSIBILITIES.

(a) Commencing January 1, 2004, and thereafter, within thirty days after a new tenant occupies a rental property of any kind within the Village, the rental property owner or owners shall file with the Administrator a report showing the names and addresses of each new tenant who occupies the rental property. If available, the rental property owner or owners shall also report the new tenant's telephone number and place of employment to the Administrator.

(b) Commencing January 1, 2004, and thereafter, within thirty days after a tenant vacates rental property, the rental property owner or owners shall file a report with the Administrator showing the date the tenant vacated the property and the name of each tenant vacating the property. If available, the rental property owner shall also report the new address of the vacating tenant.

(c) Commencing January 1, 2004, and thereafter, the Administrator shall forward a questionnaire to each tenant within the Village at their last known address. Each tenant who receives an individual or business questionnaire shall, within thirty days after receipt, complete the questionnaire and return it to the Administrator.

(d) Whoever violates subsections (a) and/or (b) hereof is guilty of a minor misdemeanor upon the first offense; a second offense within one year after the first offense is a misdemeanor of the fourth degree; a third offense and each subsequent offense within one year after the first offense is a misdemeanor of the third degree. Whoever violates subsection (c) hereof is guilty of a minor misdemeanor. (Ord. 03-12. Passed 12-23-03.)