

CHAPTER 181
Income Tax

181.01	Purpose.	181.11	Collection of unpaid taxes and refunds of overpayments.
181.02	Definitions.	181.12	Violations; penalties.
181.03	Imposition of tax.	181.13	Board of Review.
181.04	Effective period of tax.	181.14	Allocation of funds.
181.05	Return and payment of taxes.	181.15	Credit for tax paid to another municipality.
181.06	Collection at source.	181.16	Collection of tax after termination of chapter.
181.07	Declarations.	181.17	Mandatory registration.
181.08	Duties of the Administrator.	181.18	Estimated tax amounts due.
181.09	Investigative powers of the Administrator; penalty for divulging confidential information.	181.19	Late filing fee.
181.10	Interest and penalties.		

CROSS REFERENCES

Payroll deductions - see Ohio R.C. 9.42
Municipal income taxes - see Ohio R.C. Ch. 718
State income tax - see Ohio R.C. Ch. 5747

181.01 PURPOSE.

To provide funds for the purpose of general Municipal operations, maintenance new equipment, extension and enlargement of Municipal services and facilities and capital improvements of the Village there shall be, and is hereby levied a tax on salaries, wages, commission and other compensations and on net profits as hereinafter provided. (Ord. 1195-88. Passed 4-11-88.)

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 of Taxation" means a person designated and appointed by Council who shall administer and enforce the provisions of this chapter.
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprises owned by two or more persons.

- (c) "Board of Review" means the Board created by and constituted as provided in Sections 181.13 and 183.28.
- (d) "Business" means an enterprise activity, profession or undertaking of any nature conducted for profits, whether by an individual, partnership, association, corporation or any other entity.
- (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) "Employees" 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 of 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 ending on any day other than December 31.
- (i) "Gross receipts" means the total income from any source whatsoever.
- (j) "Net profit" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income and in the case of an association, without deduction of salaries paid to partners and other owners, and otherwise adjusted to the requirements of this chapter.
- (k) "Nonresident" means an individual domiciled outside the Village.
- (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (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 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 the Village.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (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, the time frame in which the net profits are to be computed under this chapter, and in 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) The singular shall include the plural, and the masculine shall include the feminine and the neuter.
(Ord. 1195-88. Passed 4-11-88.)

181.03 IMPOSITION OF TAX.

Subject to the provisions of Section 181.16, an annual tax for the purposes specified in Section 181.01 shall be imposed on and after July 1, 1988, at the rate of one percent (1%) per annum upon the following:

- (a) On all salaries, wages, commissions and other compensations earned during the effective period of this chapter by residents of the Village.
- (b) On all salaries, wages, commissions and other compensation for work done or services performed or rendered and business or other activities conducted in the Village.
- (c) (1) On the portion attributable to the Village of the net profits 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.
(2) On the portion of the distributive share of the net profits 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.
- (d) On the portion attributable to the Village of the net profits of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in the Village whether or not such unincorporated business entity has an office or place of business in the Village.
(Ord. 1195-88. Passed 4-11-88.)

181.04 EFFECTIVE PERIOD OF TAX.

The income 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 after July 1, 1988.
(Ord. 1195-88. Passed 4-11-88.)

181.05 RETURN AND PAYMENT OF TAXES.

(a) Each taxpayer, except as herein provided shall, whether or not a tax be due thereon, make and file a return on or before April 30, 1989, and on or before April 30 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 regulations that the return of an employer or employers, showing the amount of tax deducted by the employer or employers from the salaries, wages, commissions or other compensations of an employee and paid by him or them to the Administrator shall be accepted 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 setting forth:

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

- (2) The amount of the tax imposed by this chapter on such earnings and profits.
- (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 of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

- (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 or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.15 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 the 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 of the overpayment (or part thereof) shall be refunded, provided that **no** additional taxes or refunds of less than one dollar shall be collected or refunded.

(e) Amended Returns.

- (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due the requirements and/or limitations contained in Sections 181.11 and 181.15. These 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 Village tax liability, the taxpayer shall make and file an amended Village return showing income subject to the Village tax used 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. 1195-88. Passed 4-11-88.)

181.06 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, such employer within or doing business within the Village shall deduct at the time of the payment of the 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 and shall, on or before the last day of the month following the close of each previous calendar month make a return and pay to the Administrator the amount of taxes so deducted. These 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. The 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) The employer in collecting the tax shall be deemed to hold the same until payment is made by the employer to the Village as trustee for the benefit of the Village and any tax collected by the 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. 1195-88. Passed 4-11-88.)

181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 shall file a declaration setting forth estimated income or the estimated profit or loss from 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, such person need not file a declaration.

- (b) (1) The 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) The declaration shall be filed upon a form furnished by or obtainable from the Administrator, provided, however, credit shall be taken for the Village tax to be withheld from any portion of the income in accordance with the provisions of Section 181.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration for any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(d) The 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 last day of the sixth, ninth and twelfth 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 the Village shall be paid therewith in accordance with the provisions of Section 181.05.
(Ord. 1195-88. Passed 4-11-88.)

181.08 DUTIES OF THE ADMINISTRATOR.

- (a) (1) The Village Clerk-Treasurer shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; keep an accurate record thereof; and report all moneys so received.
- (2) The Administrator shall enforce payment of all taxes owing the Village, 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 show the dates and amounts of payments.

(b) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of the return.

- (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. The authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the chapter.
- (2) Failure to make any deferred payment when due shall cause the total unpaid balance, 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 to the Village from the taxpayer and shall send to the 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 regulations approved by the Board, the Administrator shall have the power to compromise any interest or penalty or both, imposed by Section 181.10.
(Ord. 1195-88. Passed 4-11-88.)

18 1.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator is authorized to examine the books, papers and records 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 returned for taxation or any transaction tending to affect such income, and for this purpose, may compel the production of books, papers and records 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 and records or the refusal to submit 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 of subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.12.

(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, divulging such information in violation of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to the fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village 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. 1195-88. Passed 4-11-88.)

181.10 INTEREST AND PENALTIES.

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

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

- (1) For failure to pay taxes due, other than taxes withheld, one-half percent (1/2%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees, three percent (3%) per month or fraction thereof.

(c) 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 or 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 interest, the Board may nevertheless abate penalty or interest or both. (Ord. 1195-88. Passed 4-11-88.)

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 amount 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 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 from 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. 1195-88. Passed 4-11-88.)

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) Fail, neglect or refuse to pay the tax penalties or interest imposed by this chapter, or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator, or

- (5) Refuse to permit the Administrator or any duly authorized agent, or employee, to examine his books, records and papers relating to the income or net profits of a taxpayer, or
 - (6) Fail to appear before the Administrator and to produce his books, records or papers 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 residential address, or fail to promptly notify any 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 Village tax withheld, or to knowingly give the Administrator 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 dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) All prosecutions under this section must be commenced 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 prosecution must be commenced five years from the date the return was due or the date the false or fraudulent return was filed.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
(Ord. 1195-88. Passed 4-11-88.)

181.13 BOARD OF REVIEW.

(a) A Board of Review, consisting of the President of Council, the Mayor, the Clerk-Treasurer, and two additional members appointed by the Mayor, 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 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 of Review.

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

(c) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 1195-88. Passed 4-11-88.)

181.14 ALLOCATION OF FUNDS.

All funds collected under the provisions of this chapter shall be deposited in the General Fund to be used for current expenses. (Ord. 1331-97. Passed 12-1-97.)

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the Village is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the Village who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village, if it be made to appear that he has paid a village income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed on this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may, by regulation, provide. (Ord. 1195-88. Passed 4-11-88.)

181.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned 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 such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.12.

(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. 1195-88. Passed 4-11-88.)

181.17 MANDATORY REGISTRATION.

(a) Each new resident of the Village shall register with the Income Tax Administrator of the Village to become subject to the Middleport Village income tax within thirty days of establishing residency in the Village.

(b) All employers, contractors or subcontractors who do work in the Village shall register with the Income Tax Administrator and shall present her a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the Village income tax.

(c) On September 1, 1991, and on every year thereafter, all landlords who rent property in Middleport must submit an up-to-date list of their tenants to the Income Tax Administrator of the Village.

(d) No person, corporation, partnership or firm engaging in business of any kind shall engage in that business within the Village without first registering with the Income Tax Administrator and providing the following information:

- (1) The name, business address and mailing address of the company, individual, partnership or firm;
- (2) The telephone number of such company, individual, partnership or firm;
- (3) The type of business in which the company, individual, partnership or firm is engaged;
- (4) Such other information as the Income Tax Administrator may require;
- (5) The name and position of the person providing the information.

(e) No building permits shall be issued by the Village, in any case, in which the work is to be done for hire, until the contractor has first registered his name, address and principal place of business (and in the case of corporate entity contractor, has registered the name and address of the statutory agent of the corporation) with the Income Tax Administrator and, if subcontractors are involved or are to be involved, such contractor shall first register the same information for subcontractors as is herein required for contractors.

(f) Applicant shall have a registration certificate as supplied by the Village displayed in a conspicuous location at the business premises or job site,

(g) Whoever violates this section shall be guilty of a minor misdemeanor and may be subject to a fine of five dollars (\$5.00) per day for each day in which they are in violation of this section. (Ord. 1239-91. Passed 4-15-91.)

181.18 ESTIMATED TAX AMOUNTS DUE.

The Income Tax Administrator will hereafter have the power and authority to determine an estimated amount of tax due for any resident who fails to file a Village income tax return by the ascribed due date April 30 of the year following receipt of income. This is provided that said resident has filed a final return for the previous two years. The estimated amount will be based upon the amounts filed with those returns.

(Ord. 1311-95. Passed 7-24-95.)

181.19 LATE FILING FEE.

Beginning with income tax year of 1995 with filing due April 30 1996, a late filing fee will be instituted. Any returns filed after midnight on the due date of April 30 will automatically be assessed a charge of twenty-five dollars (\$25.00). This fee will be assessed whether the filer owes a tax balance or not. (Ord. 1311-95. Passed 7-24-95.)