

CHAPTER 183 **Earned Income Tax**

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CROSS REFERENCES

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

PURPOSE

183.0101 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purposes of general Municipal functions of the Village there is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.
 (Ord. 2005-22. Passed 3-9-05.)

DEFINITIONS

183.0301 DEFINITIONS.

For the purpose of this chapter, the terms, phrases, words and their derivatives shall have the meanings given in this section. The singular shall include the plural and the masculine shall include the feminine and the neuter.
 (Ord. 2005-22. Passed 3-9-05.)

183.0302 ADMINISTRATOR.

"Administrator" means the individual designated to administer and enforce the provisions of the Village income tax. The Mayor or his appointee shall serve as Administrator. (Ord. 2005-22. Passed 3-9-05.)

183.0303 ASSOCIATION.

"Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons. (Ord. 2005-22. Passed 3-9-05.)

183.0304 BOARD OF REVIEW.

"Board of Review" means the board created by and constituted as provided in Section 183.2501. (Ord. 2005-22. Passed 3-9-05.)

183.0305 BUSINESS.

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding however, all nonprofit corporations which are exempt from the payment of Federal income tax. (Ord. 2005-22. Passed 3-9-05.)

183.0306 CORPORATION.

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency. (Ord. 2005-22. Passed 3-9-05.)

183.0307 EMPLOYEE.

"Employee" means one who works for wages, salary, commission or other type of compensation in the service of any employer. (Ord. 2005-22. Passed 3-9-05.)

183.0308 EMPLOYER.

"Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other basis of compensation. (Ord. 2005-22. Passed 3-9-05.)

183.0309 FISCAL YEAR.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31. (Ord. 2005-22. Passed 3-9-05.)

183.0309.1 GENERIC FORM.

An electronic or paper form designed for reporting estimated municipal taxes, and/or annual municipal income tax liability and/or requests for refunds, which contains all the information required on the Municipality's regular tax return, estimated payment forms, and request for refund forms, and is in a similar format that will allow processing of the generic forms without altering the Municipality's procedures for processing forms. (Ord. 2005-22. Passed 3-9-05.)

183.0310 GROSS RECEIPTS.

"Gross receipts" means the total income from any source whatever.
(Ord. 2005-22. Passed 3-9-05.)

183.0311 NET PROFITS.

For taxable years prior to 2004 "Net profits" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; and in case of an association, without deduction of salaries paid to partners and other owners. For taxable years 2004 and later, See "Adjusted Federal Taxable Income".

Adjusted Federal Taxable Income-A "C" Corporation's Federal Taxable Income before Net Operating Losses and Special Deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the Pass-Through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under O.R.C. §5745.03 or to the Net Profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.
(Ord. 2005-22. Passed 3-9-05.)

183.0312 NONRESIDENT.

"Nonresident" means an individual domiciled outside the Village.
(Ord. 2005-22. Passed 3-9-05.)

183.0313 NONRESIDENT UNINCORPORATED BUSINESS ENTITY.

"Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
(Ord. 2005-22. Passed 3-9-05.)

183.0314 PERSON.

"Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
(Ord. 2005-22. Passed 3-9-05.)

183.0315 PLACE OF BUSINESS.

"Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance. (Ord. 2005-22. Passed 3-9-05.)

183.0316 RESIDENT.

"Resident" means an individual domiciled in the Village.
(Ord. 2005-22. Passed 3-9-05.)

183.0317 RESIDENT UNINCORPORATED BUSINESS ENTITY.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
(Ord. 2005-22. Passed 3-9-05.)

183.0318 TAXABLE INCOME.

"Taxable income" means wages, qualifying wages, salaries and other compensation paid by an employer or employers before any deduction and/or net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.

Qualifying wage are wages defined in §3121.(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying Wage" represents employee's income from which municipal taxes shall be deducted by the employer, and any wages not considered a part of "Qualifying Wage" shall not be taxed by the Municipality. This definition is effective January 1, 2004, for taxable years 2004 and later, including non-qualified deferred compensation and stock options.
(Ord. 2005-22. Passed 3-9-05.)

183.0319 TAXABLE YEAR.

"Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.
(Ord. 2005-22. Passed 3-9-05.)

183.0320 TAXPAYER.

"Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.
(Ord. 2005-22. Passed 3-9-05.)

IMPOSITION OF INCOME TAX**183.0501 RATE AND INCOME TAXABLE.**

An annual tax for the purposes specified in Section 183.0101 shall be imposed on and after January 1, 1972, at the rate of one percent per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after January 1, 1972, by residents of the Village.
- (b) On all salaries, wages, commissions and other compensation earned on and after January 1, 1972, by nonresidents of the Village for work done or services performed or rendered within the Village.

- (1) A non-resident individual who works in the Municipality 12 or fewer days per year shall be considered an occasional entrant, and shall not be subject to the municipal income tax for those 12 days. For purposes of the 12 day calculation, any portion of a day worked in the Municipality shall be counted as one (1) day worked in the Municipality.
 - (2) Beginning with the 13th day, the employer of said individual shall begin withholding the income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Municipality in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the Municipality by the individual for the first 12 days.
 - (3) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Municipality.
 - (4) The 12 day occasional entry rule does not apply to entertainers or professional athletes, or their employees or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.
- (c) (1) On the portion attributable to the Village on the net profits earned on and after January 1, 1972, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village.
- (2) On the portion of the distributive share of the net profits earned on and after January 1, 1972, 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 by the Village.
- (d) (1) On the portion attributable to the Village of the net profits earned on or after January 1, 1972, of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.
- (2) On the portion of the distributive share of the net profits earned on and after January 1, 1972, 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 by the Village.
- (e) On the portion attributable to the Village of the net profits earned on and after January 1, 1972, 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.

- (f) On all proceeds from Lotteries, Gaming, Wagering or Schemes of Chance received by residents or non-residents of the Village within the Village or on the basis of activities conducted within the Village.
(Ord. 2005-22. Passed 3-9-05.)

183.0502 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1972.
(Ord. 2005-22. Passed 3-9-05.)

DETERMINATION OF ALLOCATION OF TAX

183.0701 METHOD OF DETERMINATION.

The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village, in the absence of actual records thereof, shall be determined as follows: Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight as follows:

- (a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village, during the taxable period, to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (b) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed, the alternative method of allocating net profits is as follows:
 - (1) The net profits to the Municipality from business, professional or other activities conducted in the Municipality by corporations or unincorporated entities (whether resident or non-resident) may be determined from the records of the taxpayer only if the taxpayer has bonafide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the Municipality.

- (2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Tax Administrator to determine whether the net profits attributable to the Municipality are apportioned with reasonable accuracy.
- (3) In determining the income allocable to the Municipality from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the Municipality.

In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result. (Ord. 2005-22. Passed 3-9-05.)

183.0702 SALES MADE IN THE VILLAGE.

As used in Section 183.0701(c), "sales" made in the Village means:

- (a) All sales of tangible personal property which is delivered within the Village regardless of where title passes if shipped or delivered from a stock of goods within the Village.
- (b) All sales of tangible personal property which is delivered within the Village regardless of where title passes even though transported from a point outside the Village if the taxpayer is regularly engaged through his own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the Village to purchasers outside of the Village regardless of where title passes if the taxpayer is not, through his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made. (Ord. 2005-22. Passed 3-9-05.)

183.0703 TOTAL ALLOCATION.

Add together the percentages determined in accordance with Section 183.0701 (a) through (c) or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to in Section 183.0701.

A factor is applicable even though it may be allocable entirely in or outside the Village. (Ord. 2005-22. Passed 3-9-05.)

183.0704 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 183.0501 (c) through (e), only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitute a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax. In the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month. In the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month. The person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

(Ord. 2005-22. Passed 3-9-05.)

183.0705 OPERATING LOSS CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1972, allocable to the Village may be applied against the portion of the profit of succeeding tax years allocable to the Village until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated to the Village in the same manner as provided herein for allocating net profits to the Village.

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

(Ord. 2005-22. Passed 3-9-05.)

EXEMPTIONS**183. 0901 SOURCES OF INCOME NOT TAXED.**

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

- (a) Pay or allowance of active members of the armed forces of the United States or in the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.

- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments, including disability benefits received from local, state or Federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sport events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State of Ohio from which the Village is specifically prohibited from taxing, and income of a decedent's estate during the period of administration (except such income from the operation of a business).
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes. (Ord. 2005-22. Passed 3-9-05.)

RETURNS

183.1101 TIME OF FILING RETURN.

Each taxpayer shall, for the year 2004 or later whether or not a tax be due thereon, make and file a return on or before April 15 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.
(Ord. 2005-22. Passed 3-9-05.)

183.1102 FORM AND CONTENT OF RETURN.

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

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

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

(c) Such other pertinent statements, information returns or other information as the Administrator may require.
(Ord. 2005-22. Passed 3-9-05.)

183.1103 EXTENSION OF TIME FOR FILING RETURNS.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

Extension requests may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Municipality may deny the extension if the taxpayer's income tax account with the Municipality is delinquent in any way.
(Ord. 2005-22. Passed 3-9-05.)

183.1104 CONSOLIDATED RETURNS.

(a) Any affiliated group which filed a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Municipality. However, once the affiliated group has elected to file a consolidated return or a separate return with the Municipality, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Municipality.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village 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 the Village. If the Administrator finds that net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the Village.
(Ord. 2005-22. Passed 3-9-05.)

183.1105 AMENDED RETURNS.

(a) Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both, contained in Sections 183.1701 through 183.1703 and Section 183.1902. Such amended return shall be on a generic form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's 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.
(Ord. 2005-22. Passed 3-9-05.)

PAYMENT OF TAX

183.1301 PAYMENT OF TAX ON FILING OF RETURNS.

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

- (1) When any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 183.1302; or
- (2) When any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 183.1303; or
- (3) When an income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in Section 183.1902 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) 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, indicate on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.
(Ord. 2005-22. Passed 3-9-05.)

183.1302 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of one percent per annum 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 each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$ 100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(b) Returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(c) Such employer, in collecting the tax, shall be deemed to hold the same until payment is made by such employer to the Village as trustee for the benefit 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.

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

- (e) (1) Tax withheld from employees are trust funds in the hands of the corporate officers, managers or employee having the control or supervision of or charged with the responsibility of filing the employer's returns or pay the employer's tax, penalty and interest related thereto.
- (2) The officer or employee having control or supervision of or charged with the responsibility of, filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax due, as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes due.
(Ord. 2006-74. Passed 12-13-06.)

183.1303 DECLARATIONS OF INCOME NOT COLLECTED AT SOURCE.

Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less tax withheld within the Village, less the tax credit allowed in Section 183.1902, unless such taxpayer anticipates that such tax will be fully withheld within the Village and any income earned outside of the Village will be fully taxed at the same or higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than ten dollars (\$ 10.00), no declaration or payment of estimated tax is required.

No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to 100% of the previous year's tax liability, provided that the previous year reflected a 12 month period, or if 90% of the actual liability has been received.
(Ord. 2005-22. Passed 3-9-05.)

183.1304 FILING OF DECLARATION.

(a) The declaration required by Section 183.1303 shall be filed on or before April 30 of each year during the effective period set forth in Section 183.0502 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.
(Ord. 2005-22. Passed 3-9-05.)

183.1305 FORM OF DECLARATION.

(a) The declaration required by Section 183.1303 shall be filed upon a generic form furnished by or obtainable from the Administrator. As provided in Section 183.1303, credit shall be taken for the Village tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of Section 183.1902.

(b) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
(Ord. 2005-22. Passed 3-9-05.)

183.1306 PAYMENT TO ACCOMPANY DECLARATION.

Effective January 1, 2003, the Declaration of Estimated Tax to be paid by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4th) of the declaration amount and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of the following year.

Effective January 1, 2003 such Declaration of Estimated Tax to be paid to the Municipality by corporations and associations shall be accompanied by a payment of at least one-fourth (1/4th) of the declaration amount in and at least a similar amount shall be paid on or before June 15th, September 15th and December 15th. In the case of a fiscal year taxpayer the second, third and fourth quarterly estimated payments shall be due on the 15th day of the sixth (6th), ninth (9th) and twelfth (12th) month of the taxable year, respectively.

However, 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.
(Ord. 2005-22. Passed 3-9-05.)

183.1307 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which a declaration or an 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 183.1301. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.
(Ord. 2005-22. Passed 3-9-05.)

183.1308 TIME FOR FILING.

The Administrator may extend the time for filing of any return required, making of any payment, or performing any other act required by this chapter for a period of not to exceed six months beyond the original required date.
(Ord. 2005-22. Passed 3-9-05.)

INTEREST AND PENALTIES

183.1501 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due, shall bear interest at the rate of eighteen percent (18%) per annum.
(Ord. 2005-22. Passed 3-9-05.)

183.1502 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 183.1501, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

- (a) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent per annum, but not less than five dollars (\$5.00).
- (b) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof, but accumulated penalty shall not exceed fifty percent upon any unpaid amount and shall not be less than five dollars (\$5.00).
(Ord. 2005-22. Passed 3-9-05.)

183.1503 EXCEPTIONS.

No penalty shall be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, and in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.
(Ord. 2005-22. Passed 3-9-05.)

183.1504 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate the penalty or interest, or both, for good cause shown.
(Ord. 2005-22. Passed 3-9-05.)

183.1505 VIOLATIONS.

Any person who:

- (a) Fails, neglects or refuses to make any return or declaration required by this chapter; or
- (b) Makes any incomplete, false or fraudulent return; or
- (c) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
- (d) Fails, neglects, or refuses to withhold the tax from his employees or remit such withholding to the Administrator; or
- (e) Refuses to permit the Administrator, or any duly authorized agent or employee, to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
- (f) Fails to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (g) Refuses to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (h) Fails to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (i) Gives to any employer false information as to his true name, correct social security number and residence address or fails to promptly notify an employer of any change in residence address or the date thereof; or

- (j) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or knowingly gives the Administrator false information; or
- (k) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter, is guilty of a misdemeanor of the first degree for each offense.
(Ord. 2005-22. Passed 3-9-05.)

183.1506 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within the time prescribed under Ohio R.C. 718.06.
(Ord. 2005-22. Passed 3-9-05.)

183.1507 FAILURE TO PROCURE FORMS NOT EXCUSE.

The failure of any employer or person to receive or procure a return, declaration or other required generic form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.
(Ord. 2005-22. Passed 3-9-05.)

COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

183.1701 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

All taxes imposed by this chapter shall be collectable, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. However, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the Federal tax liability.
(Ord. 2005-22. Passed 3-9-05.)

183.1702 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.
(Ord. 2005-22. Passed 3-9-05.)

183.1703 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$ 1.00) shall not be collected or refunded.
(Ord. 2005-22. Passed 3-9-05.)

TAXPAYER RELIEF

183.1902 TAX CREDIT.

(a) When the taxable income of a resident of the Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident, for income earned on or after July 1, 1997, shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to zero percent (0%) 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. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

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

(Ord. 2005-22. Passed 3-9-05.)

DISBURSEMENT OF RECEIPTS OF TAX COLLECTION

183.2101 DISBURSEMENT OF FUNDS COLLECTED.

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

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

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for Municipal purposes.

(Ord. 2005-22. Passed 3-9-05.)

DUTIES AND AUTHORITY OF THE ADMINISTRATOR

183.2301 DUTY TO RECEIVE TAX IMPOSED.

It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received.

(Ord. 2005-22. Passed 3-9-05.)

183.2302 DUTY TO ENFORCE COLLECTION.

It shall be the duty of the Administrator to enforce payment of all taxes owing to 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 make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof.

(Ord. 2005-22. Passed 3-9-05.)

183.2303 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.
(Ord. 2005-22. Passed 3-9-05.)

183.2304 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 183.1701 and 183.1505 shall apply.
(Ord. 2005-22. Passed 3-9-05.)

183.2305 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the 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.
(Ord. 2005-22. Passed 3-9-05.)

183.2306 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.
(Ord. 2005-22. Passed 3-9-05.)

183.2307 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
(Ord. 2005-22. Passed 3-9-05.)

183.2308 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 183.1505.
(Ord. 2005-22. Passed 3-9-05.)

183.2309 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

Any information gained as the result of any returns, investigations, hearings or verifications required or otherwise authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall be fined not more than one thousand dollars (\$1,000) or imprisoned 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 any provision of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 2005-22. Passed 3-9-05.)

183.2310 TAXPAYER REQUIRED TO RETAIN RECORDS.

Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.
(Ord. 2005-22. Passed 3-9-05.)

183.2311 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

The Village, having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 1971 -11, which Council has organized a municipal tax collection agency known as the "Regional Income Tax Agency", the Board of Trustees of such Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the Village, and the duties and authority of the Administrator hereunder may be performed by the Board of such agency through the Administrator of such agency. However, the Administrator of such agency shall have no authority to abate the penalties or interest provided for in Sections 183.1501 and 183.1502.
(Ord. 2005-22. Passed 3-9-05.)

183.2312 ASSIGNMENT OF DUTIES AND AUTHORITY OF THE ADMINISTRATOR.

In the event the Mayor, on behalf of the Village, enters into an agreement with any other municipal corporation, firm or private corporation, to act as agent for the Village for the purpose of administering the income tax laws of the Village and of providing a central facility for the collection of the income tax, as provided in Section 183.2311, then all or a part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation. Such agreement shall be approved by Council.
(Ord. 2005-22. Passed 3-9-05.)

BOARD OF REVIEW

183.2501 MEMBERSHIP; PROCEDURE.

A Board of Review is hereby created, consisting of the Treasurer, or a person designated by him, the Director of Law, or an Assistant Director of Law designated by him, and a resident elector appointed by Council. The Board shall select, each year for a one year term, one of its members to serve as chairman and one to serve as secretary. 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 shall be conducted privately and the provisions of Section 183. 2309 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.
(Ord. 2005-22. Passed 3-9-05.)

183.2502 BOARD TO APPROVE REGULATIONS AND TO HEAR APPEALS.

All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review, subject to confirmation of Council, before the same becomes 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. 2005-22. Passed 3-9-05.)

183.2503 RIGHT OF APPEAL.

Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator.

Provided the taxpayer making the Appeal has filed the required return or other documents concerning the obligation at issue. The Appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful.

The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of its closing of the record, shall be in writing and filed with the Administrator, and within 15 days of its decision, shall send notice of its decision by ordinary mail to the taxpayer making the appeal. For matters relating to tax years beginning on or after January 1, 2004 any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or the State Board of Tax Appeals. (Ord. 2005-22. Passed 3-9-05.)

OTHER PROVISIONS

183.2701 DECLARATION OF LEGISLATIVE INTENT.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.
(Ord. 2005-22. Passed 3-9-05.)

183.2702 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 183.1505 through 183.1507 and Sections 183.1701 through 183.1703.

(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 183.1101 and 183.1302 of this chapter as though the same were continuing.

(Ord. 2005-22. Passed 3-9-05.)