

**TITLE NINE - Taxation**

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 Chap. 183. Motor Vehicle License Tax.  
 Chap. 185. Enterprise Zone.  
 Chap. 187. Admissions Tax.

**CHAPTER 181**  
**Income Tax**

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**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.**

In order to provide funds for the purposes of general municipal functions of the Village of Newburgh Heights, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.  
 (Ord. 1968-13. Passed 6-25-68.)

**181.02 DEFINITIONS.**

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

- (1) "Clerk-Treasurer" means the individual designated to administer and enforce the provisions of the Village income tax.
- (2) "Association" means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (3) "Board of Review" means the Board created by and constituted as provided in Section 181.18.
- (4) "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.
- (5) "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.
- (6) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (7) "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 basis of compensation.
- (8) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (9) "Gross receipts" means the total income from any source whatever.
- (10) "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 the case of an association, without deduction of salaries to partners and other owners.
- (11) "Nonresident" means an individual domiciled outside the Village.
- (12) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (13) "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.
- (14) "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.

- (15) "Resident" means an individual domiciled in the Village.
- (16) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (17) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (18) "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.
- (19) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.  
(Ord. 1968-13. Passed 6-25-68.)

### **181.03 RATE AND INCOME TAXABLE.**

An annual tax for the purposes specified in Section 181.01 hereof shall be imposed on and after March 1, 2001, at the rate of two percent (2%) per annum upon the following:

- (a) On all salaries, wages, commissions, lottery winnings, prize moneys and other compensation earned on and after the effective date of this section, by residents of the Village.
- (b) On all salaries, wages, commissions, lottery winnings, prize moneys and other compensation earned on and after the effective date of this section, by nonresidents of the Village for work done or services performed or rendered within the Village.
- (c)
  - (1) On the portion attributable to the Village on the net profits earned on and after March 1, 2001, 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 March 1, 2001, 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 and after March 1, 2001, 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 March 1, 2001, 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 March 1, 2001, 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.  
(Ord. 2004-14. Passed 4-20-04.)

#### **181.04 EFFECTIVE PERIOD.**

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, lottery winnings, prize moneys and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after March 1, 2001.  
(Ord. 2004-14. Passed 4-20-04.)

#### **181.05 DETERMINATION OF ALLOCATION OF TAX.**

(a) Method of Determination.

- (1) In the taxation of income which is subject to the Village income tax if the books and records of a taxpayer conducting a business or profession within and without the boundaries of the Village of Newburgh Heights shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for the purposes of municipal income taxation. 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:
- A. Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll, and sales, each of which shall be given equal weight, as follows:
1. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the 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.
  2. 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.

3. 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.  
In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted as to produce such result.

(b) Sales Made in the Village. As used in subsection (a)(1)A.3. hereof "sales made in the Village of Newburgh Heights" means:

- (1) 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.
- (2) 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 its own employees in the solicitation or promotion of sales within the Village and the sales result from such solicitation or promotion.
- (3) 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 its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(c) Total Allocation. Add together the percentages determined in accordance with subsection (a)(1)A. 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 181.05.

A factor is applicable even though it may be allocable entirely in or outside the Village.  
(Ord. 1968-13. Passed 6-25-68.)

(d) Rentals.

- (1) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 181.03, 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) constitutes a business activity of the taxpayer in the whole or in part.

- (2) 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; provided that in the case of commercial property, the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts of profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.  
(Ord. 1973-33. Passed 11-20-73.)
- (e) Operating Loss Carry Forward.
- (1) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1968 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.
- (2) 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.
- (3) The Clerk-Treasurer shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.  
(Ord. 1968-13. Passed 6-25-68.)

#### **181.06 EXEMPTIONS.**

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

- (a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
- (b) Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.

- (d) Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when 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 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 Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes. (Ord. 1968-13. Passed 6-25-68.)

#### **181.07 RETURN.**

(a) Each taxpayer shall, whether or not 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 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.

(b) Form and Content of Return. The return shall be filed with the Clerk on a form or forms furnished by or obtainable upon request from such Clerk, setting forth:

- (1) The aggregate amounts of salaries, wages, commissions, lottery winnings, prize moneys 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, and
- (3) Such other pertinent statements, information returns, or other information as the Clerk-Treasurer may require.  
(Ord. 2004-14. Passed 4-20-04.)

(c) Extension of Time for Filing Returns. The Clerk-Treasurer may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, 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 Clerk-Treasurer may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Clerk-Treasurer.
- (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Clerk-Treasurer shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Clerk-Treasurer 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.

(e) Amended Returns.

- (1) 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 Section 181.13. Such amended return shall be on a form obtainable on request from the Clerk-Treasurer. 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, 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. 1968-13. Passed 6-25-68.)

**181.08 PAYMENT.**

(a) The taxpayer making a return shall, at the time of the filing thereof, pay to the Clerk-Treasurer the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 181.09, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.10. That amount shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(b) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this section may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(Ord. 1968-13. Passed 6-25-68.)



**181.09 COLLECTION AT SOURCE; MANAGER'S OBLIGATION.**

(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 salaries, wages, commissions, lottery winnings, prize moneys or other compensation, the tax of two percent (2%) per annum of the gross salaries, wages, commissions, lottery winnings, prize moneys or other compensation due by such employer to such employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.  
(Ord. 2004-14. Passed 4-20-04.)

(b) 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 or not such taxes have, in fact, been withheld.

(c) Such employer in collecting such tax shall be deemed to hold the same until payment is made by such employer to the Village as a 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.  
(Ord. 1980-24. Passed 11-18-80.)

(e) The officer or employee having control or supervision of or charged with the responsibility of filing any return or declaration required by this chapter and making payment, or any officer of a corporation who is responsible for execution of the corporation's fiscal responsibilities, shall be personally liable for failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this chapter. The dissolution, termination or bankruptcy of a corporation does not discharge a responsible officer's or employee's liability for failure of the corporation to file returns or declarations or pay tax or employee withholding due. (Ord. 2001-19. Passed 3-20-01.)

**181.10 DECLARATIONS.**

(a) 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, 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.  
(Ord. 1973-33. Passed 11-20-73.)

(b) Filing of Declaration.

- (1) The declaration required by subsection (a) hereof shall be filed on or before April 30 of each year during the effective period set forth in Section 181.04 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 period.  
(Ord. 1968-13. Passed 6-25-68.)

(c) Form of Declaration.

- (1) The declaration required by subsection (a) hereof shall be filed upon a form furnished by or obtainable from the Administrator. As provided in subsection (a) hereof, 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.
- (2) The original declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.  
(Ord. 1972-7. Passed 1-4-72.)

(d) Payment to Accompany Declaration. Such declaration of estimated tax to be paid to 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 seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following 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.  
(Ord. 1973-33. Passed 11-20-73.)

(e) Annual Return. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewith in accordance with the provisions of Section 181.08 hereof. Provided, however, that any taxpayer may file on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.  
(Ord. 1972-7. Passed 1-4-72.)

**181.11 INTEREST AND PENALTIES.**

(a) 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 eight percent (8%) per annum.

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

- (1) For failure to pay taxes or estimated taxes due, other than taxes withheld; ten percent (10%) per annum, but not less than twenty-five dollars (\$25.00).

- (2) For failure to remit taxes withheld from employees; ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than twenty-five dollars (\$25.00).  
(Ord. 1981-2. Passed 1-6-81.)

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

(d) Upon recommendation of the Clerk-Treasurer, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Clerk-Treasurer to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.  
(Ord. 1968-13. Passed 6-25-68.)

#### **181.12 VIOLATION; PENALTIES.**

(a) Whoever:

- (1) Fails, neglects or refuses to make any return or declaration required by this chapter; or
- (2) Makes any incomplete, false, or fraudulent return; or
- (3) Fails, neglects or refuses to pay the tax, penalties or interest imposed by this chapter; or
- (4) Fails, neglects or refuses to withhold the tax from his employees or remit such withholding to the Clerk-Treasurer; or
- (5) 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
- (6) Fails to appear before the Clerk-Treasurer and to produce his books, records, papers or federal income tax returns relating to income or net profits of a taxpayer upon order or subpoena of the Clerk-Treasurer; or
- (7) Refuses to disclose to the Clerk-Treasurer any information with respect to the income or net profits of a taxpayer; or
- (8) Fails to comply with the provisions of this chapter or any order to subpoena of the Clerk-Treasurer authorized hereby; or
- (9) Gives to an employer false information as to his true name, correct social security number and residence address, or fails to promptly notify an employer of any change in residence address and date thereof; or
- (10) Fails to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or to knowingly give the Clerk-Treasurer false information; or
- (11) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; shall be 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) Limitation on Prosecution. All prosecutions under this section shall be commenced within the time limits provided by Ohio R.C. Chapter 718.

(c) Failure to Procure Forms Not Excuse. The failure of any employer or person to receive or procure a return, declaration or other required form, shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax. (Ord. 1968-13. Passed 6-25-68.)

### **181.13 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENTS.**

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to this tax, or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Clerk-Treasurer, shall be one year from the time of the final determination of the Federal tax liability.

(b) 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.

(c) Amounts of Less than One Dollar. Amounts of less than one dollar (\$1.00), shall not be collected or refunded. (Ord. 1968-13. Passed 6-25-68.)

### **181.14 DISBURSEMENT OF FUNDS COLLECTED.**

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

- (1) 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.
- (2) The balance remaining after payment of the expenses referred to in paragraph one above shall be deposited in the General Fund for municipal purposes. (Ord. 1968-13. Passed 6-25-68.)

### **181.15 DUTIES AND AUTHORITY OF CLERK-TREASURER.**

(a) Duty to Receive Tax Imposed. It shall be the duty of the Clerk-Treasurer to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all moneys so received.

(b) Duty to Enforce Collection. It shall be the duty of the Clerk-Treasurer 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 amount of payments thereof.

(c) Authority to Make and Enforce Regulations. The Clerk-Treasurer is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(d) Authority to Arrange Installment Payments. The Clerk-Treasurer is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Clerk-Treasurer, 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 Section 181.12 and 181.13 shall apply.

(e) 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 Clerk-Treasurer may determine the amount of tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.  
(Ord. 1968-13. Passed 6-25-68.)

#### **181.16 INVESTIGATIVE POWERS; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) Authority to Make Investigations. The Clerk-Treasurer, 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 Clerk-Treasurer believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Clerk-Treasurer, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b) Authority to Compel Productions of Records. The Clerk-Treasurer 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 person to have knowledge of such income or information pertinent to such inquiry.

(c) 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 any order or subpoena of the Clerk-Treasurer authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.12.

(d) Confidential Nature of Information Obtained. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this section shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section, shall upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the 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) 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 of his return is filed, or the withholding taxes are paid. (Ord. 1968-13. Passed 6-25-68.)

#### **181.17 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.**

(a) The Village having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance No. 1971 - 7, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency," the Board of Trustees of such Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the Village, and the duties and authorities of the Administrator hereunder may be performed by the Board of Trustees of such agency through the Administrator of such agency. Provided, however, the Administrator of such agency shall have no authority to abate penalties or interest provided for in Section 181.11(a) and (b). (Ord. 1972-7. Passed 1-4-72.)

(b) Extension of Time Limitations During Year of 1967. During the year of 1967 and until collection facilities have been established and are functioning, the Clerk-Treasurer may extend the specified time limitations and/or filing deadlines prescribed in this chapter. (Ord. 1968-13. Passed 6-25-68.)

#### **181.18 BOARD OF REVIEW.**

(a) Established. A Board of Review consisting of the Mayor, or a person designated by him, the Director of Law, or an Assistant Director of Law designated by him, and member of Council to be elected by that body, is hereby created. 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 record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.16(d) hereof with reference to the confidential character of information required to be disclosed by this section shall apply to such matters as may be heard before the Board of Appeal.

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

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Clerk-Treasurer which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Clerk-Treasurer and the Board, shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 1968-13. Passed 6-25-68.)

#### **181.19 SEVERABILITY; DECLARATION OF LEGISLATIVE INTENT.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 1968-13. Passed 6-25-68.)

#### **181.20 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 for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.12 and 181.13.

(b) Annual returns due for all or any part of the last effective year of this section shall be due on the date provided in Section 181.07(a) and 181.09(a) as though the same were continuing. (Ord. 1968-13. Passed 6-25-68.)

#### **181.21 TAX ADMINISTRATOR.**

(a) There is hereby created the position of the Tax Administrator for the Village of Newburgh Heights.

(b) The position of Tax Administrator is authorized by the language contained in Ohio R.C. 733.85. (Ord. 1995-7. Passed 1-7-95.)

**181.22 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

(a) When the taxable income of a resident of the Village of Newburgh Heights is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to sixty percent (60%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the Village of Newburgh Heights 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 (1%) 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.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may be regulation provide. In the event such Village of Newburgh Heights resident fails, neglects or refuses to file an annual return or declaration on the form prescribed by the Administrator, he/she shall not be entitled to such credit or refund and shall be considered in violation of this section for failure to file a return.  
(Ord. 2001-16. Passed 2-13-01.)