

**CHAPTER 775**  
**Earned Income Tax**

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#### CROSS REFERENCES

- Power to levy income tax - see Ohio Const. XVIII, Sec. 3
- Taxation generally - see [CHTR. Art. VIII](#)
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- Tax Administrator - see ADM. Ch. [129](#)

#### **775.01 PURPOSE; LEVY OF TAX.**

For the purpose of providing funds for general Municipal functions, there is hereby levied an income tax on all salaries, wages, commissions and other compensation, on net profits of business, on government sponsored lottery proceeds, and on gambling winnings as provided in this chapter.

(Ord. 2012-4. Passed 8-8-12.)

#### **775.02 DEFINITIONS.**

As used in this chapter certain terms and words are defined as follows:

- (a) "Administrator" means the person appointed by the Mayor to administer and enforce this chapter.
- (b) "Adjusted federal taxable income" shall have the same meaning as provided in the Ohio Revised Code. This definition is effective for tax years beginning on or after January 1, 2004.
- (c) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- (d) "Board of Review" means the Board created by, and constituted as provided in Section [775.45](#).
- (e) "Business" means any enterprise, activity, profession or undertaking conducted for

profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, excluding all nonprofit corporations which are exempt from the payment of Federal income taxes.

(f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, this State or any other state, territory, foreign country or dependency.

(g) "Employee" means a person who works for a wage, salary, commission or other type of compensation in the service of an employer.

(h) "Employer" means an individual, partnership, association, corporation or 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 wage, salary, commission or other basis of compensation.

(i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

(j) "Fundamental change" means any substantial alteration by an employer including liquidation, dissolution, bankruptcy and reorganizations such as merger, consolidation, acquisition, transfer or change in identity, form or organization.

(k) "Gambling winnings" means all prizes, awards, and income derived from gaming, wagering, non-State sponsored lotteries or schemes of chance as reported on Internal Revenue Service Form W2-G, Form 5754 and/or any other form required by the Internal Revenue Service to report such prizes, awards and income.

(l) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, or annual municipal income tax liability, or requests for refunds, which contain all the information required on the Village's regular tax return, estimated payment form, and request for refund form, and are in a similar format that will allow processing of the generic forms without altering the Village's procedures for processing forms.

(m) "Gross receipts" means the total income from any source.

(n) "Intangible Income" means the same as provided in Ohio R.C. 718.01.

(o) "Manager" means any of the employer's officers, responsible persons, employees having control or supervision and employees charged with the responsibility of filing the return, paying taxes, and otherwise complying with this chapter.

(p) "Net profits," for taxable years prior to 2004, means a net gain from the operation of a business, profession, enterprise or other activity, after provisions have been made 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 the deduction of taxes imposed by this chapter or Federal, State and other taxes based on income and, in the case of an association, without the deduction of salaries paid to partners or other owners. For taxable years 2004 and later, see "adjusted federal taxable income."

(q) "Nonresident" means a person domiciled outside the Municipality.

(r) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business in the Municipality.

(s) "Occasional entrant" means a non-resident individual who works in the Village twelve (12) or fewer days, but excluding individuals who are entertainers or professional athletes, or the employees or other individuals who perform services on their behalf, or to

promoters or booking agents of such entertainment events and sporting events.

(t) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in a clause prescribing and imposing a penalty, "person," as applied to an unincorporated entity, means the partners or members thereof and, as applied to corporations, the officers thereof.

(u) "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 a business activity individually or through one or more of his or her employees regularly in attendance.

(v) "Qualifying wage," means the same as is defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions, and represents an employee's income from which municipal tax shall be deducted by the employer. Non-qualified deferred compensation and stock options shall be considered "Qualifying wages." Any wage not considered a "qualifying wage" shall not be subjected to the withholding provisions of this chapter.

(w) "Resident" means a person domiciled in the Municipality.

(x) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business in the Municipality.

(y) "Taxable income" means the wages, salaries and other compensation paid by an employer before deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with this chapter, gross lottery winnings in excess of six hundred dollars (\$600.00) per year received from a lottery commissioned, conducted, or administered by, but not limited to, the State of Ohio, any other state, United States territory, government-benefit multi-state lottery association, or other similar agency and gambling winnings in excess of ten thousand dollars (\$10,000) per year.

(z) "Taxable year" means the calendar year, or the fiscal year on 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.

(aa) "Taxpayer" means a person required by this chapter to file a return or pay a tax.  
(Ord. 2012-4. Passed 8-8-12.)

### **775.03 RATE; TAXABLE INCOME.**

An annual tax for the purpose specified in Section [775.01](#) shall be levied on and after January 1, 1972, at the rate of one percent (1%) per year, and on and after July 1, 1982, at the rate of two percent (2%) per year, as follows:

(a) On all salaries, wages, commissions and other compensation earned on and after January 1, 1972, by residents of the Municipality;

(b) On all salaries, wages, commissions and other compensation earned on and after January 1, 1972, by nonresidents of the Municipality for work done or services performed or rendered in the Municipality;

(c) (1) On the portion attributable to the Municipality of the net profits earned on and after January 1, 1972, of all resident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and

business or other activities conducted in the Municipality;

(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 Municipality and not levied against such unincorporated business entity by the Municipality;

(d) (1) On the portion attributable to the Municipality 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 or other activities conducted in the Municipality, whether or not such unincorporated business entities, professions or activities have offices or places of business in the Municipality;

(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 Municipality and not levied against such unincorporated business entity by the Municipality; and

(e) On the portion attributable to the Municipality 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 Municipality, whether or not such corporations have offices or places of business in the Municipality.

(f) On gross lottery winnings in excess of six hundred dollars (\$600.00) per year received from a lottery commissioned, conducted, or administered by, but not limited to, the State of Ohio, any other state, United States territory, government- benefit multi-state lottery association, or other similar agency on or after January 1, 2004.

(g) On gambling winnings in excess of ten thousand dollars (\$10,000.00) per year on or after January 1, 2012. If the taxpayer is considered a professional gambler for federal income tax purposes, related deductions as permitted by the Internal Revenue Code shall be allowed against gambling winnings.

(Ord. 2012-4. Passed 8-8-12.)

#### **775.04 EFFECTIVE PERIOD.**

(a) The earned income tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation of employees, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1972.

(b) Income tax shall be levied, collected and paid with respect to gross lottery winnings in excess of six hundred dollars (\$600.00) per year received from a lottery commissioned, conducted, or administered by, but not limited to, the State of Ohio, any other state, United States territory, government-benefit multi-state lottery association, or other similar agency received on and after January 1, 2004.

(c) Income tax shall be levied, collected and paid with respect to gambling winnings in excess of ten thousand dollars (\$10,000.00) per year received on and after January 1, 2012.  
(Ord. 2012-4. Passed 8-8-12.)

#### **775.05 METHOD OF DETERMINATION.**

(a) Except as otherwise provided in subsection (c) hereof, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period to the average original cost of all of 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 such municipal corporation to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Ohio R.C. 718.011;

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

If the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under uniform regulations adopted by the Administrator, so as to produce an equitable result.

(b) Except as otherwise provided in subsection (c) hereof, net profit from rental activity not constituting a business or profession shall be subject to tax only by the municipal corporation in which the property generating the net profit is located.

(c) This section does not apply to individuals who are residents of the municipal corporation and, except as otherwise provided in Ohio R.C. 718.01, a municipal corporation may impose a tax on all income earned by residents of the municipal corporation to the extent allowed by the United States Constitution.

(Ord. 2005-2. Passed 4-13-05.)

#### **775.06 SALES MADE IN THE MUNICIPALITY DEFINED.**

As used in Section [775.05](#), "sales made in the Municipality" means:

(a) All sales of tangible personal property which is delivered in the Municipality, regardless of where title passes, if shipped or delivered from a stock of goods in the Municipality;

(b) All sales of tangible personal property which is delivered in the Municipality, regardless of where title passes, even though such property is transported from a point outside the Municipality, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales in the Municipality and the sales result from such

solicitation or promotion; and

(c) All sales of tangible personal property which is shipped from a place in the Municipality to purchasers outside the Municipality, 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.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.07 BUSINESS ALLOCATION PERCENTAGE.**

(a) Add together the percentages determined in accordance with Section [775.05](#) or such of these percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section [775.05](#).

(b) A factor is applicable even though it may be allocable entirely in or outside the Municipality.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.08 RENTALS.**

(a) Rental income received by a taxpayer shall be included in the computation of net profits from the business activities enumerated in subsections (c) through (e) of Section [775.03](#) only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived, whether so rented, managed or operated by such taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(b) 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 the taxpayer, and the net income of such rental property shall be subject to earned income taxation, provided that:

(1) 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;

(2) In the case of farm property, the owner shall be considered engaged in a business activity when he or she 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

(3) In the case of a licensed rooming house, the operator shall be considered in business whether or not the gross income therefrom exceeds two hundred fifty dollars (\$250.00) per month.

(Ord. 1971-51. Passed 12-1-71.)

#### **775.09 OPERATING LOSS-CARRY FORWARD.**

(a) The portion of a net operating loss sustained in any taxable year subsequent to April 1,

1967, allocable to the Municipality may be applied against the portion of the profit of succeeding tax years allocable to the Municipality, 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 the net profits of any prior year.

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

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

(Ord. 1967-7. Passed 3-1-67.)

#### **775.10 NONTAXABLE INCOME.**

Earned income tax shall not be levied on the following:

(a) The pay or allowances 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 or associations;

(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 or health and welfare activities when conducted by bona fide charitable, religious or educational organizations or associations; provided, however, that gross lottery winnings in excess of six hundred dollars (\$600.00) per year received from a lottery commissioned, conducted, or administered by, but not limited to, the State of Ohio, any other state, United States territory, government-benefit multi-state lottery association, or other similar agency received on and after January 1, 2004, and gambling winnings in excess of ten thousand dollars (\$10,000) per year on or after January 1, 2012, shall be taxable;

(e) Alimony received;

(f) Personal earnings of any person under eighteen years of age;

(g) Compensation, by way of insurance or otherwise, for personal injuries or for damages to property;

(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 which the Municipality is specifically prohibited from taxing or 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 or any act of the Ohio General Assembly limiting the power of the Municipality to impose net income taxes; and

(l) Parsonage allowances, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

(Ord. 2012-4. Passed 8-8-12.)

#### **775.11 DATE OF FILING OF RETURN.**

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 15, 2005 and on or before April 15 of each year thereafter. When a 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. 2005-2. Passed 4-13-05.)

#### **775.12 FORM AND CONTENT OF RETURN.**

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

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and the gross income from a business, profession or other activity, including gross lottery winnings in excess of six hundred dollars (\$600.00) per year received from a lottery commissioned, conducted, or administered by, but not limited to, the State of Ohio, any other state, United States territory, government- benefit multi-state lottery association, or other similar agency received on and after January 1, 2004, and gambling winnings in excess of ten thousand dollars (\$10,000) per year on or after January 1, 2012, less the allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to the 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. 2012-4. Passed 8-8-12.)

#### **775.13 EXTENSION OF TIME FOR FILING RETURNS.**

The Administrator may extend the time for filing the annual return upon the request of the taxpayer, which request shall be filed in accordance with the provisions of Ohio R.C. Chapter 718. The Administrator may deny the extension if the taxpayer's account with the Village is delinquent in any way. 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.

(Ord. 2005-2. Passed 4-13-05.)

#### **775.14 CONSOLIDATED RETURNS.**

Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Village. Once the affiliated group has elected to file a consolidated return or a separate return

with the Village, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Village.

(Ord. 2005-2. Passed 4-13-05.)

#### **775.15 AMENDED RETURNS.**

(a) Where necessary, a taxpayer must file an amended return in order to report any additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and limitations, or both, contained in Sections [775.29](#) through [775.32](#). Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's Municipal tax liability, such taxpayer shall make and file an amended return showing income subject to the earned income tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.16 PAYMENT OF TAX ON FILING OF RETURN.**

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

- (1) Where any portion of the tax so due has been deducted at the source pursuant to Section [775.17](#);
- (2) Where any portion of the tax has been paid by the taxpayer pursuant to Section [775.18](#); or
- (3) Where 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 [775.32](#), 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 Municipality is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his or her election, indicated on the return, such overpayment, or a 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. 1971-51. Passed 12-1-71.)

(c) If any employer which is liable for tax obligations imposed by this chapter undergoes a fundamental change, then the employer and its manager shall be liable for taxes due up to the date of the fundamental change. Taxes and final tax returns shall be due immediately after the fundamental change. Any successor employer shall withhold from any purchase price that the successor owes to the predecessor an amount sufficient to pay all unpaid taxes, interest and penalty which the predecessor employer owes pursuant to this chapter. The successor employer

shall make such withholding until such time that the predecessor employer has paid such taxes, interest and penalties. If the successor fails to withhold such amount, then the successor and, in a personal manner, the successor's manager, shall be jointly and severally liable for the payment of such taxes, interest and penalty.

(Ord. 1988-60. Passed 11-9-88.)

#### **775.17 COLLECTION AT SOURCE.**

(a) In accordance with the rules and regulations prescribed by the Administrator, each employer in or doing business in the Municipality shall deduct, at the time of the payment of salaries, wages, commissions or other compensation, the tax rate imposed in Section [775.03](#) as a percentage of the gross salaries, wages, commissions or other compensation due by the employer to each employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of the tax so deducted during the previous month. However, if the amount of the tax so deducted by the employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and the 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) The returns shall be made on a form prescribed by, or acceptable to, the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such tax has, in fact, been withheld.

(c) The employer, in collecting the tax, shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality. Any such tax collected by such employer from his or her employees shall, until the same is paid to the Municipality, be deemed a trust fund in the hands of such employer.

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

(e) Manager's Obligation.

(1) Every manager is deemed to be a trustee of this Municipality in collecting and holding the tax required under this chapter to be withheld, and the funds so collected by such withholding are deemed to be trust funds. Every manager is liable directly to this Municipality for payment of such trust funds, whether actually collected by such employer or not. Any tax deducted and withheld is to be considered paid to this Municipality, whether or not the employer actually remits the tax to this Municipality, for purposes of determining employee payments or credits only.

(2) All managers shall be personally liable to the extent of the tax, interest and penalty, jointly and severally, for failure to file the employer's return or to pay the employer's tax, interest and penalty as required under this chapter.

(3) No change in structure by an employer, including a fundamental change,

discharges its managers from liability for the employees' or manager's failure to remit funds held in trust, to file a tax return or to pay taxes.

(f) Occasional Entrants.

(1) Occasional entrants shall not be subject to the Village municipal income tax for the 12 or fewer days they work in the Village. For purposes of the 12- day calculation, any portion of a day worked in the Village shall be counted as one day worked in the Village.

(2) Beginning with the thirteenth day, the employer of any individual shall begin withholding the Village income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to the Village in accordance with the requirements of this chapter. Since the individual will no longer be considered an occasional entrant, the employer is, further, required to remit taxes on income earned in the Village for the first twelve days.

(3) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate income tax to the Village.

(Ord. 2005-2. Passed 4-13-05.)

**775.18 DECLARATIONS OF INCOME; EXCEPTIONS.**

(a) Except as provided in this section, every person shall file a declaration setting forth taxable income, together with the estimated tax due thereon, less the tax withheld in the Village and less the tax credit allowed in Section [775.32](#), unless such person anticipates that such tax will be fully withheld in the Village and any income earned outside the Village will be fully taxed at the same or a higher rate of tax in another municipality. If the estimated tax for the current year, less such tax to be withheld and less such tax credit, amounts to not more than one hundred dollars (\$100.00), no declaration or payment of estimated tax is required.

(b) No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve month period, or if ninety percent (90%) of the actual liability has been received.

(c) Effective January 3, 2005, the Declaration of Estimated Tax to be paid to the Village by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) 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.

(d) Effective January 1, 2005, such Declaration of Estimated Tax to be paid to the Village by corporations and associations shall be accompanied by a payment of at least one-fourth of the Declaration amount 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 fifteenth day of the sixth, ninth and twelfth months of the taxable year, respectively.

(Ord. 2005-2. Passed 4-13-05.)

**775.19 DATE OF FILING.**

(a) The declaration required by Section [775.18](#) shall be filed on or before April 30 of each year during the effective period set forth in Section [775.04](#) or within four months of the date the taxpayer becomes subject to the tax for the first time.

(b) A taxpayer reporting on the basis of a fiscal year shall file such declaration within four months after the beginning of such fiscal year or period.  
(Ord. 1967-7. Passed 3-1-67.)

#### **775.20 FORM OF DECLARATION.**

(a) The declaration required by Section [775.18](#) shall be filed on a form furnished by or obtainable from the Administrator or a generic form. As provided in Section [775.18](#), credit shall be taken for the Municipal tax to be withheld from any portion of a person's income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with Section [775.32](#).

(b) Such declaration or any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for in this chapter.  
(Ord. 2005-2. Passed 4-13-05.)

#### **775.21 PAYMENTS.**

When filed, the declaration required by Section [775.18](#) shall be accompanied by a payment of at least one-fourth of the estimated annual tax. 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 year following the taxable year. However, in the case of filing an amended declaration, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.  
(Ord. 1973-44. Passed 11-7-73.)

#### **775.22 ANNUAL RETURNS.**

On or before the last day of the fourth month of the year following that year for which a declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with Section [775.16](#). However, any taxpayer may file, on or before the last day of the first month of the year following that year for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time, in lieu of filing a declaration or an amended declaration and in lieu of paying the final quarterly installment based on a declaration or amended declaration of estimated tax.  
(Ord. 1971-51. Passed 12-1-71.)

#### **775.23 INTEREST.**

All taxes imposed, all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid by this chapter and remaining unpaid after they become due shall bear interest at the rate of ten percent (10%) per year.  
(Ord. 2010-36. Passed 2-9-11.)

#### **775.24 PENALTIES FOR UNPAID TAXES; EXCEPTIONS.**

In addition to interest, as provided in Section [775.23](#) hereof, penalties based upon the unpaid tax and for unfiled returns or declarations are hereby imposed as follows:

- (a) For failure to pay taxes or estimated taxes due, other than taxes withheld: twenty percent (20%) per year, but not less than twenty-five dollars (\$25.00);
- (b) For failure by an employer to remit taxes withheld from employees: twenty percent (20%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) of any unpaid amount and shall not be less than one hundred dollars (\$100.00).
- (c) For failure or neglect to file any return or declaration required by this Chapter, there shall be assessed a penalty in the amount of fifty dollars (\$50.00) for the first instance, seventy-five dollars (\$75.00) for the second instance and one hundred dollars (\$100.00) for each subsequent instance, provided, however, that this subsection shall not be applied to any offense which occurs prior to the effective date of this section.

(Ord. 1993-63. Passed 3-8-95.)

#### **775.25 ABATEMENT OF INTEREST AND PENALTIES.**

Either the Administrator or the Board of Review may abate penalties, but there shall be no abatement of interest.

(Ord. 1982-40. Passed 7-14-82. )

#### **775.26 VIOLATIONS.**

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his or her employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator or any duly authorized agent or employee to examine his or her books, records, papers or Federal Income Tax Returns relating to the income or net profits of a taxpayer;
- (f) Fail to appear before the Administrator and to produce his or her 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;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) Give to an employer false information as to his or her true name, correct social security number and residence address or fail to promptly notify an employer of any change in his or her residence address and the date thereof;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Municipal income tax withheld, or knowingly

give the Administrator false information; or

(k) Attempt to do anything to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.27 LIMITATION ON PROSECUTION.**

All prosecutions under this chapter must be commenced within the time prescribed by Ohio R.C. 718.12. (Ord. 2009-20. Passed 9-9-09.)

#### **775.28 FAILURE TO PROCURE FORMS.**

The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him or her from making any information return, return or declaration, from filing such form or from paying the tax.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.29 RECOVERY OF UNPAID TAXES.**

The earned income tax imposed by this chapter shall be collectible, together with any interest or penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud or omission of a substantial portion of taxable income, or of failure to file a return, the Administrator shall not make an additional assessment after three years from the time the return was due or filed, whichever is later. However, if a Commissioner of Internal Revenue and a taxpayer have executed a waiver of the Federal statute of limitations, the period within which the Administrator may make an additional assessment shall be one year from the time of the final determination of the Federal tax liability.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.30 TAXES ERRONEOUSLY PAID.**

Earned income taxes erroneously paid shall not be refunded unless a claim for a refund is made within the time prescribed by Ohio R.C. 718.06.

(Ord. 1972-26. Passed 7-5-72.)

#### **775.31 AMOUNTS NOT COLLECTED.**

Amounts less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 1967-7. Passed 3-1-67. )

#### **775.32 TAX CREDITS.**

(a) When the income of a resident which is taxable under this chapter is subject to a municipal income tax in another municipality, 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 rates of such other municipality or of the Village by the taxable income earned in, or attributable to, the municipality of employment or business activity.

But, in any event, such credit shall not be applied to a rate in excess of one and one-half percent (1.5%) of the taxable income earned in or attributable to the municipality of employment or business activity. For 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.  
(Ord. 1985-17. Passed 6-12-85.)

(b) A refund or credit claim shall be made on a form prescribed by the Administrator.  
(Ord. 1982-37. Passed 8-11-82.)

### **775.33 DISBURSEMENT OF FUNDS.**

The funds collected under this chapter shall be disbursed as follows:

(a) Such part thereof as is necessary to defray all expenses of collecting the tax and of administering and enforcing 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. 1967-7. Passed 3-1-67.)

### **775.34 RECEIPT OF TAXES.**

The Administrator shall receive the earned income tax from the taxpayers, in the manner prescribed in this chapter, shall keep an accurate record thereof and shall report all moneys so collected.

(Ord. 1967-7. Passed 3-1-67.)

### **775.35 ENFORCEMENT OF PAYMENT; RECORDS.**

The Administrator shall enforce the payment of all taxes owed to the Municipality, keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and make a return, or both, including taxes withheld, and show the dates and amounts of payments thereof.

(Ord. 1972-26. Passed 7-5-72.)

### **775.36 ENFORCEMENT; RULES AND REGULATIONS.**

The Administrator is hereby charged with the enforcement of this chapter and is hereby authorized, subject to the approval of the Board of Review, to adopt, promulgate and enforce rules and regulations pertaining to the collection of taxes and the administration and enforcement of this chapter, including the re-examination and correction of returns.

(Ord. 1967-7. Passed 3-1-67.)

### **775.37 INSTALLMENT PAYMENTS.**

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

(b) Failure to make a deferred payment when due shall cause the total unpaid amount, including interest and penalties, to become payable on the demand of the Administrator and the provisions of Sections [775.26](#) and [775.29](#) shall apply.

(Ord. 1967-7. Passed 3-1-67.)



**775.38 FAILURE TO FILE RETURNS; INCORRECT RETURNS.**

If a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due the Municipality, the Administrator may determine the amount of tax appearing to be due from such 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. 1967-7. Passed 3-1-67.)

**775.39 INVESTIGATIONS.**

The Administrator or an authorized agent or employee is hereby authorized to examine the books, papers, records and Federal Income Tax Returns of an employer or any person subject to, or who the Administrator believes is subject to, this chapter, for the purpose of verifying the accuracy of a return made or, if no return was made, to ascertain the tax due under this chapter. Each employer or person is hereby directed and required to furnish, upon written request by the Administrator or his or her duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are authorized in this chapter. (Ord. 1967-7. Passed 3-1-67.)

**775.40 EXAMINATION; PRODUCTION OF RECORDS.**

The Administrator is hereby authorized to order to appear before him or her a person presumed to have knowledge of, or information applicable to, income which was or should have been returned for taxation or any transaction tending to affect such income. The Administrator may examine such person under oath, concerning 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 or her, whether as parties or witnesses, whenever he or she believes such persons have knowledge of such income or information applicable to such examination. (Ord. 1967-7. Passed 3-1-67.)

**775.41 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 an employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with this chapter or with an order or subpoena of the Administrator authorized by this chapter, shall be deemed a violation of this chapter, punishable as provided in Section [775.99](#). (Ord. 1967-7. Passed 3-1-67.)

**775.42 CONFIDENTIALITY OF INFORMATION.**

Information gained as the result of returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes or except in accordance with proper judicial order. No person shall divulge such information. (Ord. 1967-7. Passed 3-1-67.)

**775.43 RETENTION OF RECORDS BY TAXPAYERS.**

Every taxpayer shall retain all records necessary to compute his or her tax liability for a

period of six years from the date his or her return is filed or the date the withholding taxes are paid.

(Ord. 1972-26. Passed 7-5-72.)

#### **775.44 CENTRAL COLLECTION.**

The Municipality has entered into an agreement for the establishment of a Regional Council of Governments, pursuant to Ordinance 1971-25, which Regional Council has organized a municipal tax collection agency known as the "Regional Income Tax Agency. " The Board of Trustees of the Agency is hereby authorized to administer and enforce this chapter as the agent of the Municipality, and the duties and authority of the Administrator under this chapter may be performed by the Board of Trustees through the Administrator of the Agency. However, the Administrator of the Agency shall have no authority to abate the penalties or interest provided for in Sections [775.23](#) and [775.24](#).

(Ord. 1971-51. Passed 12-1-71.)

#### **775.45 BOARD OF REVIEW.**

A Board of Review, consisting of the Mayor, the Law Director, and a member of Council, 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 keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section [775.42](#), 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. 1967-7. Passed 3-1-67.)

#### **775.46 APPROVAL OF RULES AND REGULATIONS; APPEALS; ALTERNATE METHODS OF ALLOCATION.**

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

(Ord. 1967-7. Passed 3-1-67.)

#### **775.47 RIGHT OF APPEAL.**

Any person dissatisfied with a 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 (30) days from the announcement of such ruling or decision by the Administrator, provided the taxpayer making the appeal has filed with the Village the required return or other documents containing 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 such ruling or decision or a part thereof. Such hearing shall be scheduled within forty-five (45) days from the date of appeal. The Board's ruling must be made within ninety (90) days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within fifteen (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 to the State Board of Tax Appeals.

(Ord. 2005-2. Passed 4-13-05.)

#### **775.48 SEPARABILITY.**

If a provision, sentence, clause, section or part of this chapter, or any tax against any person specified in this chapter, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such provision, sentence, clause, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or 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. 1967-7. Passed 3-1-67.)

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

(a) This chapter shall continue effective, insofar as the levy of taxes is concerned, until repealed. Insofar as the collection of taxes levied under this chapter and the actions and proceedings for collecting any tax so levied or for enforcing any provision of this chapter are concerned, it shall continue effective until all taxes levied under this chapter are paid and until all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter have been terminated, subject to the limitations contained in Sections [775.26](#) through [775.31](#).

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the dates provided in Sections [775.11](#) and [775.17](#) as though the same were continuing.

(Ord. 1967-7. Passed 3-1-67.)

#### **775.50 REGISTRATION OF CONTRACTOR AND SUBCONTRACTOR.**

(a) Any contractor and/or subcontractor applying for a permit to do building, reconstruction, construction or remodeling shall, when applying for the building permit, register their name, federal employer's identification number, place of business and person or persons to whom correspondence shall be directed with the Administrator.

(b) The Administrator shall note upon the building contractor's and/or subcontractor's application for a building permit that such contractor and/or subcontractor have registered with the Village Tax Department in accordance with rules and regulations of the Village Tax Department and transmit such information that the registration has been completed to the Building Department.

(Ord. 1996-35. Passed 10-9-96.)

#### **775.51 CONTRACTOR REGISTRATION.**

(a) No person, firm, partnership or corporation shall perform any construction work in Orange Village unless they possess an uncanceled certificate of tax registration issued by the Village Tax Department.

(b) A person, firm, partnership or corporation performing or engaged in any construction work in Orange Village shall file an application with the Village Tax Department and comply with all requirements with respect to maintaining the certificate of tax registration pursuant to the provisions of this chapter.

(c) The Village Tax Department shall maintain a list, and provide quarterly updates to the Village Building Department, of all uncanceled certificate of tax registration holders.  
(Ord. 1996-35. Passed 10-9-96.)

#### **775.52 APPLICATION FOR REGISTRATION.**

A person, firm, partnership or corporation that will perform construction work in Orange Village shall file annually with the Village Tax Department an application in the form prescribed by the Tax Administrator, verified by the oath of the principal officer (i.e. notarized), setting forth information which includes but is not limited to:

- (a) The actual and exact name, as well as the taxpayer identification number (Fed I.D. or S.S #) under which the person, firm, partnership or corporation will perform construction work;
- (b) The address and telephone number for the principal place of business for the person, firm, partnership or corporation that will perform the construction work;
- (c) Proof that the person, firm, partnership or corporation that will perform construction work is current in its obligation to file tax returns and pay taxes to Orange Village;
- (d) Proof of current coverage under Ohio workers' compensation and unemployment compensation at the time of registration and/or registration;
- (e) Proof of the appointment, as well as the complete name and address of the statutory or designated agent for the entity that will perform construction work.

(Ord. 1996-35. Passed 10-9-96.)

#### **775.53 REGISTRATION DENIAL; RENEWAL.**

(a) A certificate of tax registration shall be denied to any person, firm, partnership or corporation that will perform construction work in Orange Village for:

- (1) Failure to file tax returns;
- (2) Failure to be current in the obligation to file tax returns;
- (3) Failure to pay taxes;
- (4) Failure to be current in the obligation to pay taxes; or
- (5) For good cause articulated by the Tax Administrator for the Village.

(b) A certificate of tax registration shall remain valid and is renewable annually unless cancelled by the Village Department of Taxation for any of the grounds for denial stated in subsection (a) that extends or continues beyond a twelve-month period.

(c) Any person, firm, partnership or corporation shall reregister with the Village Tax Department if their certificate or tax registration is cancelled pursuant to this chapter.

(Ord. 1996-35. Passed 10-9-96.)

**775.54 INTERPRETATION.**

This chapter shall be read in harmony with the Ohio Revised Code. To the fullest extent possible, full effect shall be given to both documents. Should any of provision of this chapter be determined to be in conflict with any regulation of the Ohio Revised Code, the regulation of the Ohio Revised Code shall prevail.

(Ord. 2005-2. Passed 4-13-05.)

**775.99 PENALTY.**

(a) Whoever violates or fails to comply with any provision of this chapter, for which no penalty is otherwise provided, is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days or both for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) Whoever violates Section [775.42](#) is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

In addition to the above penalty, any employee of the Municipality who violates Section [775.42](#) shall be guilty of an offense punishable by immediate dismissal.

(Ord. 1981-54. Passed 11-11-81.)

(c) Whoever violates Section [775.51](#) is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation of the ordinance occurs or continues.

(Ord. 1996-35. Passed 10-9-96.)