

ORDINANCE NO. 2014-14(O)

**AN ORDINANCE AMENDING SECTIONS 181.13 (b)(1) and 181.01(a) OF THE
CODIFIED ORDINANCES OF THE VILLAGE OF PERRY, OHIO, TO PROVIDE FOR
AN ADDITIONAL TAX LEVIED FOR THE PURPOSE OF PROVIDING FUNDS FOR
GENERAL MUNICIPAL OPERATIONS, SERVICES AND CAPITOL
IMPROVEMENTS PURSUANT TO SECTION 718.01(C) OF THE OHIO REVISED
CODE AND DECLARING AN EMERGENCY.**

WHEREAS, in accordance with Subsection (C) of Section 718.01 of the Ohio Revised Code, as amended by HB 48, effective July 2, 2010, in order to submit the question of an income tax levy at a rate in excess of one per cent (1%), Council must seek the approval of the excess by a majority of the electors of the Village voting on the question at a general, primary, or special election; and

WHEREAS, in accordance with said Subsection (C) of Section 718.01 of the Ohio Revised Code, upon receipt of a certified copy of this Resolution together with the Ordinance of this Council seeking to so levy a tax on income at a rate in excess of one per cent (1%), declaring the necessity of the tax, stating its purpose and specifying the date the election is to be held and directing the board of elections to conduct the election; and

WHEREAS, Section 181.13(b)(1) of the Codified Ordinances of the Village of Perry, Ohio, presently provides for the levy of a tax in the amount of one percent (1%) per annum, same having been imposed by virtue of Ordinance Number 3-1987 and to remain in effect until repealed, for the imposition of an income tax; and

WHEREAS, Section 181.01(a) of the Codified Ordinances of the Village of Perry, Ohio, provides that all tax received as a result of the provisions of 181.13(b)(1), as well as those other provision of Chapter 181 of the Codified Ordinances of the Village of Perry, Ohio, shall be used to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capitol improvement of the Village; and

WHEREAS, Council found it to be in the best interest of the residents of the Village to take all steps necessary to now submit a request to allow for the levy of an additional income tax in the amount of one percent (1%) per annum in excess of the one percent (1%) per annum rate presently in effect, thereby effecting a total income tax of two percent (2%) per annum for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capitol improvement of the Village; and

WHEREAS, That Council submitted the question of additional income tax in the amount of one percent (1%) per annum in excess of the one percent (1%) per annum rate presently in effect to the electors of the Village at the primary election held on May 6, 2014, as authorized by Section 718.01(C) of the Revised Code.; and

WHEREAS, Section 181.01(a) of Codified Ordinances of the Village of Perry, Ohio read as follows:

181.01 PURPOSE OF LEVY OF INCOME TAX

- (a) The purposes of the first one percent (1%) of the net monies received from the annual tax imposed by virtue of Ordinance No. 3-1987 shall be to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capitol improvement of the Village; and

WHEREAS, Section 181.13(b)(2) of Codified Ordinances of the Village of Perry, Ohio read as follows:

181.13 INTENT AND TAX CONTINUATION

- (b) Collection of Tax after Termination of Chapter

(2) This chapter shall continue effective insofar as the levy of taxes in the amount of one percent (1%) per annum imposed by virtue of Ordinance No. 3-1987 is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions in proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid in any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitation contained in Section 181.09 and 181.08(e) to (g); and

WHEREAS, Council had been advised of the need to increase the rate of said income tax to two percent (2%) per annum; and

WHEREAS, Council found it necessary and appropriate to modify the previously designated tax imposed by the aforesaid sections; and

WHEREAS, Council finds it to be in the best interest of the residents of the Village to take all steps necessary to amend the aforesaid sections.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF PERRY, COUNTY OF LAKE, AND STATE OF OHIO, AS FOLLOWS:

Section 1. That Section 181.01(a) of the Codified Ordinances of the Village of Perry, Ohio, "Purpose of Levy of Income Tax," be, and is hereby amended to read as follows:

181.01 PURPOSE OF LEVY OF INCOME TAX

- (a) The two percent (2%) of the net monies received from the annual tax imposed by virtue of this Ordinance No. 2014-002 shall be to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capitol improvement of the Village.

Section 2. That Section 181.13(b)(1) of the Codified Ordinances of the Village of Perry, Ohio, "Collection of Tax after Termination of Chapter." be, and is hereby amended to read as follows:


(b) Collection of Tax after Termination of Chapter

- (1) This chapter shall continue effective insofar as the levy of taxes in the amount of two percent (2.0%) per annum imposed by virtue of this Ordinance No. 2014- 14 is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions in proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid in any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitation contained in Section 181.09 and 181.08(e) through (g).

Section 3. That all formal actions of the Council concerning the passage of this Ordinance were adopted in an open meeting, and all deliberations of this Council, or any of its Committees, which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

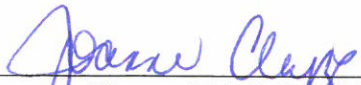
Section 4. That this Ordinance is hereby declared to be and is passed as an emergency measure, the emergency being the need for the efficient administration of the financial affairs of the Village. Said Ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare of the inhabitants of the Village of Perry, Ohio.

WHEREFORE, this Ordinance shall be in full force and effect immediately upon its passage.



VICKY STEVENS, MAYOR

ADOPTED: November 20, 2014

ATTEST: 

Joanne Clapp, Chief Fiscal Officer

ORDINANCE NO. 2009-10

**AN ORDINANCE REPEALING SECTION 181.10
OF THE CODIFIED ORDINANCES OF THE VILLAGE OF PERRY, OHIO,
PERTAINING TO TAXPAYER RELIEF AND RECIPROCITY
AND DECLARING AN EMERGENCY**

WHEREAS, Council has previously provided for the establishment of a "tax credit" for those taxpayers who are subject to an Income tax in other Municipalities; and

WHEREAS, Section 181.10 of the Codified Ordinances of the Village of Perry, Ohio, presently reads as follows:

181.10 TAXPAYER RELIEF AND RECIPROCITY.

(a) Perry Village Resident Subject to Income Tax in Other Municipality.

- (1)** When a resident of Perry Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such Perry Village resident may claim a credit of the amount of income tax paid to the other municipality, but such credit shall not exceed one hundred percent (100%) of the tax due or imposed by this chapter.
- (2)** In the event a Perry Village resident is entitled to credit for taxes paid another municipality, such Perry Village resident is required to file a return on form in such manner as the Administrator designated by the Village may prescribe.
- (3)** Assignment of any claim for refund to which a Perry Village resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of Perry Village income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.
- (4)** In the event such Perry Village resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(b). Claim for Credit. Any claim for credit for income taxes paid another municipality on the same income taxable hereunder or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed, provided that, in the case such claim for reciprocity refund shall have been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the Village on or before January 1 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(c) 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 this chapter shall be paid.
- (2)** The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for Municipal purposes set forth in Section 181.01. (Ord. 3-1987. Passed 3-10-87.)

WHEREAS, this Council finds it to be in the best interests of the residents of the Village to repeal such provisions.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF PERRY, COUNTY OF LAKE AND STATE OF OHIO, AS FOLLOWS:


Section 1. That Section 181.10 of the Codified Ordinances of the Village of Perry, Ohio, is hereby repealed in its entirety.

Section 2. That all formal actions of this Council concerning the passage of this Ordinance were adopted in an open meeting, and all deliberations of this Council, or any of its Committees, which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Wherefore, this Ordinance shall be in full force and effect immediately upon its passage.


LAURENCE LOGAN, MAYOR

ADOPTED: November 12, 2009

ATTEST: 
LINDA HOFER, CHIEF FISCAL OFFICER

TITLE NINE - Taxation
Chap. 181. Income Tax.

CHAPTER 181
Income Tax

181.01	Purpose of levy of Income Tax.	181.09	Unpaid taxes and refunds.
181.02	Definitions.	181.10	Taxpayer relief and reciprocity.
181.03	Imposition of income tax.	181.101	Tax Administrator.
181.04	Determination of tax allocation.	181.11	Duties and authority of Administrator.
181.05	Exemptions.	181.12	Board of Review.
181.06	Returns.	181.13	Intent and tax continuation.
181.07	Payment of tax.	181.99	Penalty.
181.08	Interest and penalties.		

CROSS REFERENCES

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

181.01 PURPOSE OF LEVY OF INCOME TAX.

(a) The purpose of the first one percent (1%) of the net monies received from the annual tax imposed by virtue of Ordinance No. 3-1987 shall be to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvement of the Village. (Ord. 13-1996. Passed 8-13-96.)

(b) The purposes of the one-half percent (.5%) additional net tax received by virtue of Ordinance No. 13-1996 shall be to provide funds that are restricted for the specific purpose of capital improvements. (Ord. 8-2001. Passed 6-14-01.) - DEFEATED IN 2001

(c) For the purposes contained in subparagraphs (a) and (b) above, there is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. (Ord. 13-1996. Passed 8-13-96.)

181.02 DEFINITIONS.

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

- (a) "Administrator" means the individual designated to administer and enforce the provisions of the Village income tax.
- (b) "Assignment" means the assignment made by a resident of Perry Village of a claim for refund due from another taxing municipality granting credit to non-residents thereof.
- (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 181.12.
- (e) "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.
- (f) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State or any other state, territory or foreign country or dependency.
- (g) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) "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.
- (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
- (j) "Gross receipts" means the total income from any source whatever.
- (k) "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 paid to partners and other owners.
- (l) "Nonresident" means an individual domiciled outside the Village of Perry.
- (m) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
- (n) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, "person" as applied to any unincorporated entity, means the partners or members thereof, and as applied to corporations, the officers thereof.
- (o) "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.
- (p) "Resident" means an individual domiciled in the Village.
- (q) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.

- (r) "Taxable income" means wages, salaries, commissions, other compensation paid by an employer before any deduction, net profits from the operation of a business or profession or other enterprise or activity, adjusted in accordance with the provisions of this chapter, and other compensation, including but not limited to, income derived from gaming, wagering, lotteries or schemes of chance.
(Ord. 4-2004. Passed 1-22-04.)
- (s) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this ordinance 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.
- (t) "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. 3-1987. Passed 3-10-87.)

181.03 IMPOSITION OF INCOME TAX.

(a) Rate and Taxable Income. For the purposes specified in Section 181.01, on and after the effective date of this chapter the annual tax of one and one-half percent per annum (1.5%) shall be imposed upon the following income:

- (1) All salaries, wages, commissions and other compensation earned on and after the effective date of this chapter by residents of the Village;
- (2) All salaries, wages, commissions and other compensation earned on and after the effective date of this chapter by non-residents of the Village for work done or services performed or rendered with the Village;
- (3) A. The portion attributable to the Village on the net profits earned on and after the effective date of this chapter 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;
B. The portion of the distributive share of the net profits earned on and after the effective date of this chapter 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;
- (4) A. On the portion attributable to the Village of the net profits earned on or after the effective date of this chapter of all nonresident unincorporated business entities, professions or other activities, 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;
B. On the portion of the distributive share of the net profits earned on or after the effective date of this chapter 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.
- (5) On the portion of the distributive share of the net profits earned on or after the effective date of this chapter 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.

(b) Effective Date.

- (1) The tax in the amount of one percent (1 %) per annum enacted by Ordinance No. 3-1987 shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of business, professions or other activities earned on and after the first effective date of that ordinance.
- (2) The tax in the amount of one half per cent (.5%) per annum enacted by Ordinance No. 13-1996 shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of business, professions or other activities earned on and after the 1st day of January, 1997.
(Ord. 3-1987. Passed 3-10-87; Ord. 13-1996. Passed 8-13-96.)

181.04 DETERMINATION OF TAX ALLOCATION.

(a) Method of Determination. In the taxation of income which is subject to Village income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village 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:

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 this subsection (a)(1), "real property" means property rented or leased by the taxpayer. 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.

(b) Sales Made in the Village. As used in subsection (a) (3), "Sales made in the Village" 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 percentage determined in accordance with subsection (a) hereof, 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 the total in order to obtain the business allocation percentage referred to in subsection (a) hereof.

A factor is applicable even though it may be allocable entirely in or outside the Village.

(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(a)(3) to (5), 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 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 one hundred twenty-five dollars (\$125.00) 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. However, 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 one hundred twenty-five dollars (\$125.00) 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 one hundred twenty-five dollars (\$125.00) per month. It is provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month.

(e) Operating Loss; Carry Forward.

- (1) The portion of a net operating loss sustained in any taxable year subsequent to the effective date of this chapter 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 Administrator shall provide by rules and regulations the manner in which such net operating loss carry forward shall be determined.
(Ord. 3-1987. Passed 3-10-87.)

181.05 EXEMPTIONS.

The tax provided for in this chapter 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 any such are conducted by bona fide charitable, religious or educational organizations and associations;
- (e) Alimony received;
- (f) Personal earnings of any natural person under eighteen years of age;
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise;
- (h) Interest, dividends and other revenue from intangible property;
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State 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 compensations 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 Village to impose net income tax.
(Ord. 3-1987. Passed 3-10-87.)

181.06 RETURNS.

(a) Date for Filing Returns. Each taxpayer, except as herein provided, shall, whether or not a tax is 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. The Administrator is hereby authorized to provide by regulation that the return of an employer, showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income subject to tax under this chapter, is such salary, wages, commissions or other compensation.

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

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

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

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

(d) Consolidated Returns.

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

(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 Sections 181.09 and 181.10(a) and (b). 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 the 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. 3-1987. Passed 3-10-87.)

181.07 PAYMENT OF TAX.**(a) Payment of Tax on Filing of Return.**

- (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of subsection (b) hereof, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of subsection (c) hereof or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.10 shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.
- (2) The taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, 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.

(b) Collection at Source.

- (1) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Village shall deduct at the time of the payment of such salary, wage, commissions or other compensation, the amount of tax imposed by Section 181.03 on the gross salaries, wages, commissions or other compensation due by the employer to the employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted, subject to the provisions of subsection (b)(3) to (7) hereof. Returns shall be on a form 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.
- (2) Such employer in collecting the 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.
- (3) Such employer who deducts the tax of One Hundred Dollars (\$100.00) or more in the first or second month of a calendar quarter shall, on or before the twentieth day of the following month, pay to the Administrator the amount of taxes so deducted.
- (4) Such employer who makes payments on a monthly basis for the first two months of a calendar quarter shall pay such tax deducted for the third month of a calendar quarter at the regular time for filing the employer's quarterly return of income tax withheld.
- (5) Payments shall be on a form furnished by or obtainable upon request from the Administrator, setting forth the amount of tax deducted for the month. A receipted copy of such form shall be returned to the employer to be attached to and filed with the employer's quarterly return of income tax withheld.

- (6) 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.
- (7) No person shall be required to withhold the tax on wages or other compensation paid for agricultural labor as defined in Division G of Section 3121 of Title 26 of the United States Code.

(c) Declarations of Income Not Collected at Source. Every person who anticipates any taxable income which is not subject to subsection (b) hereof or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village in accordance with subsection (b) hereof, such person need not file a declaration.

(d) Filing of Declaration.

- (1) The declaration required by subsection (c) hereof shall be filed on or before April 30 of each year during the effective period set forth in Section 181.03(b) or within four months of the date the taxpayer becomes subject to tax for the first time.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(e) Form of Declaration.

- (1) The declaration required by subsection (c) hereof shall be filed upon a form furnished by, or obtainable from, the Administrator. However, credit shall be taken for Village tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.10(a) credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
- (2) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(f) 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. At least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth month after the beginning of the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(g) 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 181.07(a). (Ord. 3-1987. Passed 3-10-87.)

181.08 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of six percent per annum or fraction thereof.

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

- (1) For failure to pay taxes due other than taxes withheld: ten percent per annum or fraction thereof.
- (2) For failure to remit taxes withheld from employees: ten percent per month or fraction thereof.

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

(d) Abatement of Interest and Penalty. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both, for good cause shown.

(e) Violations. No person shall:

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

(f) Limitation on Prosecution. All prosecutions under this chapter must be commenced within five years from the time of the offense complained of except in the case of failure to file a return, or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

(g) Failure to Procure Tax Forms. 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. 3-1987. Passed 3-10-87.)

181.09 UNPAID TAXES AND REFUNDS.

(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. 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 Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Refund of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date 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. 3-1987. Passed 3-10-87.)

181.10 TAXPAYER RELIEF AND RECIPROCITY.

(a) Perry Village Resident Subject to Income Tax in Other Municipality.

- (1) When a resident of Perry Village is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such Perry Village resident may claim a credit of the amount of income tax paid to the other municipality, but such credit shall not exceed one hundred percent (100%) of the tax due or imposed by this chapter.
- (2) In the event a Perry Village resident is entitled to credit for taxes paid another municipality, such Perry Village resident is required to file a return on form in such manner as the Administrator designated by the Village may prescribe.
- (3) Assignment of any claim for refund to which a Perry Village resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of Perry Village income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.
- (4) In the event such Perry Village resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(b) Claim for Credit. Any claim for credit for income taxes paid another municipality on the same income taxable hereunder or claim for or assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed, provided that, in the case such claim for reciprocity refund shall have been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the Village on or before January 31 following. Failure to file such claim for reciprocity credit or refund, or assignment thereof, within the time prescribed herein shall render such credit, claim for refund or assignment null and void.

(c) 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 this chapter shall be paid.
- (2) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund for Municipal purposes set forth in Section 181.01. (Ord. 3-1987. Passed 3-10-87.)

181.101 TAX ADMINISTRATOR.

(a) Pursuant to, and in accordance with, the provisions and authority set forth in Section 733.85 of the Ohio Revised Code, the Fiscal Officer of the Village shall be the officer responsible for the collection and deposit to the municipal treasury of income taxes, the enforcement and administration of the provisions of this Chapter 181, the promulgation, revision, and repeal of rule and regulations necessary to the enforcement and administration of the provisions of this Chapter 181, and said officer shall be known as the Tax Administrator.

(b) There is hereby established the office of Assistant Tax Administrator, who shall be appointed by Council, serve under the direction and control of the Tax Administrator, and shall assist the Tax Administrator in the collection and deposit to the municipal treasury of income taxes, the enforcement and administration of the provisions of this Chapter 181, and those other duties and responsibilities set forth in subsection (a), above.
(Ord. 9-2003. Passed 2-20-03.)

181.11 DUTIES AND AUTHORITY OF ADMINISTRATOR.

(a) Receipt and Records of Tax. The Administrator shall receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers, keep an accurate record thereof, and report all monies so received.

(b) Enforcement of Collection. The Administrator shall enforce payment of all taxes owing to the Village, 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 show the dates and amounts of payments thereof.

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

(d) Authority to Arrange Installment Payments.

- (1) The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.
- (2) Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 181.08(e) and 181.99 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 Administrator may determine the amount of tax appearing to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

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

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

(h) Refusal to Produce Records. The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter.

(i) Confidential Nature of Information. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. No person shall divulge such information.

(j) Taxpayer Required to Retain Records. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.

(k) Authority to Contract for Central Collection Facilities. The Mayor may and he is authorized hereby to enter into an agreement on behalf of the Village with any other municipal corporation to permit such other municipal corporation to act as agent for the Village for the purpose of administering the income tax laws of the Village and of providing a central collection facility for collection of the income tax on behalf of the Village.

(l) Withholding Taxes from Federal Employees. The Administrator is authorized to enter into an agreement on behalf of the Village with the United States Secretary of the Treasury for the purpose of withholding Village income or employment taxes from the compensation of Federal employees whose regular place of Federal employment is within the territorial jurisdiction of the Village. (Ord. 3-1987. Passed 3-10-87.)

181.12 BOARD OF REVIEW.

(a) Board of Review Established. A Board of Review, consisting of the Mayor, the Solicitor and the President 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 shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 181.11(i) 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.

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

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 3-1987. Passed 3-10-87.)

181.13 INTENT AND TAX CONTINUATION.

(a) 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. 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.

(b) Collection of Tax after Termination of Chapter.

- (1) This chapter shall continue effective insofar as the levy of taxes in the amount of one percent (1 %) per annum imposed by virtue of Ordinance No 3-1987 is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions in proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid in any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitation contained in Section 181.09 and 181.08(e) to (g). (Ord. 13-1996. Passed 8-13-96.)
- (2) This chapter shall continue on the levy of taxes on income in the amount of one-half percent (.5 %) per annum enacted in Ordinance No. 13-1996 for a period of five years, from the 1st day of January, 2002, through the 31st day of December, 2006, inclusive, 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 the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collections of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitation contained in Sections 181.99 and 181.08(e) through (g). (Ord. 8-2001. Passed 6-14-01.)

181.99 PENALTY.

(a) Whoever violates Sections 181.08(e) or 181.11(h) shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than six months, or both.

(b) Whoever violates Section 181.11(i) shall be fined 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, any employee of the Village who violates Section 181.11(i) shall be guilty of an offense punishable by immediate dismissal. (Ord. 3-1987. Passed 3-10-87.)

