

AN ORDINANCE AMENDING SECTION 191.07(b) OF THE ADMINISTRATIVE CODE TO CORRECT A REFERENCETO THE CURRENT RATE OF INCOME TAX IMPOSEDAND DECLARING AN EMERGENCY

WHEREAS, per Section 191.03(a) of the Administrative Code, the rate of income tax as of July 1, 1998 is one and one-half percent (1.5%) per annum; and

WHEREAS, it has recently been discovered that the rate of income tax referenced in Section 191.07(b) is not current and was not updated a number of years ago when the rate was increased.

NOW, THEREFORE, BE IT ORDAINED, by the Council of the Village of Reminderville, County of Summit, State of Ohio:

SECTION 1: That Section 191.07(b) of the Administrative Code is hereby amended to read as follows:

191.07 PAYMENT OF TAX.

(a) \* \* \*

(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, wages, commissions, or other compensation, the tax of ~~one percent (1%) per annum of~~ at the rate currently indicated in Section 191.03 on the gross salaries, wages, commissions or other compensation due by the employer to such 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 subsections (b)(3), (4) and (5) hereof. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes in fact have been withheld.

(2) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer from his employees, shall, until the same is paid to the Village be deemed a trust fund in the hands of such employer.

(3) Such employer who deducts the tax in an amount of two hundred fifty dollars (\$250.00) 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 such payment 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) Such payment shall be on a form or forms furnished by or obtainable from the Administrator upon request, 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.

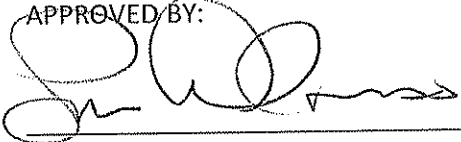
(6) No persons shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Village but such employee shall be subject to all of the requirements of this chapter.

- (c) \* \* \*
- (d) \* \* \*
- (e) \* \* \*
- (f) \* \* \*
- (g) \* \* \*
- (h) \* \* \*

SECTION 2. That Section 191.07(b) of the Administrative Code at it existed prior to the effective date of this Ordinance be, and the same hereby is, repealed.

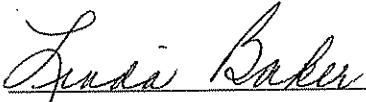
SECTION 3: That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, comfort, convenience, and general welfare of the inhabitants of the Village of Reminderville, to wit: it is necessary to correct this oversight and indicate the correct and current rate of income tax, and if this Ordinance receives the necessary number of votes, it shall take effect and be in force from and after its passage; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: 8-10-10


APPROVED BY:  
  
\_\_\_\_\_  
Sam Alonso, Mayor

DATE: AUG 11 2010

Attestation:

  
\_\_\_\_\_  
Linda Baker  
Village Fiscal Officer

I, Linda Baker, Village Fiscal Officer of the Village of Reminderville, Summit County, Ohio do hereby certify that the foregoing ORDINANCE NO. 30-2010 was duly and regularly passed by the Council of the Village of Reminderville at a regular meeting of Council on the 10 day of August, 2010.

  
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Linda Baker  
Village Fiscal Officer

TITLE NINE - Taxation  
Chap. 191. Income Tax.

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CHAPTER 191  
Income Tax

<p>191.01 Levy of tax. 191.02 Definitions. 191.03 Imposition. 191.04 Determination of allocation. 191.05 Exemptions. 191.06 Returns. 191.07 Payment of tax. 191.08 Interest and penalty.</p>	<p>191.09 Collection of unpaid taxes; refunds of overpayments. 191.10 Credit for tax paid to another Municipality. (Repealed) 191.11 Disbursement of receipts. 191.12 Duties and responsibilities. 191.13 Board of Review. 191.14 Miscellaneous provisions.</p>
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CROSS REFERENCES

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

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191.01 LEVY OF TAX.

To provide tax funds for the purposes of providing funds for the general fund, capital improvements, special projects and recreation of the Village, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensation, and on net profits. (1978 Code Sec. 281.01)

191.02 DEFINITIONS.

For purposes of this chapter the terms, phrases, words and their derivatives shall have the meanings respectively ascribed herein. 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) "Association" means any partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in Section 191.13.
- (d) "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.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.
  - (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of any employer.
  - (g) "Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage commission or other basis of compensation.
  - (h) "Fiscal year" means an accounting period of twelve months or less, ending on any day other than December 31.
  - (i) "Gross receipts" means the total income from any source whatever.
  - (j) "Net profits" means a net gain from the operation of a business, profession, enterprise, or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes without deduction of taxes imposed by this chapter, Federal, State and other taxes based on income; and in case of an association without deduction of salaries paid to partners and other owners.
  - (k) "Nonresident" means an individual domiciled outside the Village.
  - (l) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village.
  - (m) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.
  - (n) "Place of business" means any bona fide office (other than a mere statutory office) factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
  - (o) "Resident" means an individual domiciled in the Village.
  - (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
  - (q) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction and/or the net profits from the operation of the business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
  - (r) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period for which such return is required to be made.
  - (s) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.
- (1978 Code Sec. 281.02)

## 191.03 IMPOSITION.

(a) An annual tax for the purposes specified in Section 191.01 hereof shall be imposed on and after July 1, 1998, at the rate of one and one-half percent (1.5) per annum upon the following:

- (1) On all salaries, wages, commissions and other compensation earned or derived on and after July 1, 1998, by residents of the Village. The term "other compensation" includes, but is not limited to, income earned or derived from gaming, wagering, lotteries, including the Ohio State Lottery, or schemes of chance, all of which shall not be taxed as business income unless the individual subject to this tax has a federal gamblers' permit effective during the tax year in which such income from gaming, wagering, lotteries, or schemes of chance is received.
- (2) On all salaries, wages, commissions and other compensation earned on and after July 1, 1998, by nonresidents of the Village for work done or services performed or rendered.
- (3)
  - A. On the portion attributable to the Village on the net profits earned on and after July 1, 1998, 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. On the portion of the distributive share of the net profits earned on and after July 1, 1998, 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 portions attributable to the Village of the net profits earned on and after July 1, 1998, of all nonresident unincorporated business entities, professions or other activities derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village whether or not such unincorporated business entity has an office or place of business in the Village.
  - B. On the portion of the distributive share of the net profits earned on and after July 1, 1998, of a resident partner or owners of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
- (5)
  - A. On the portion attributable to the Village of the net profits earned on and after July 1, 1998, of all corporations derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village whether or not such corporations have an office or place of business in the Village.
  - B. The tax shall be levied, collected, and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 1998.  
(Ord. 3-1998. Passed 5-12-98.)

## 191.04 DETERMINATION OF ALLOCATION.

(a) Method of Determination. In the taxation of income which is subject to the Village income tax, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the Village in 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 real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.  
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing allocation formula does produce an equitable result, another basis may, under uniform regulations, be submitted so as to produce such result.

(b) Sales Made in the Village. As used in subsection (a) hereof "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 of 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 such 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. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 191.03(a)(3), (4) and (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.

Where a gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima-facie evidence that the rental ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the 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; 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 profits derived from the farm, whether or not the gross income exceeds such two hundred fifty dollars (\$250.00) per month; provided further, that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

(e) Operating Loss-Carry Forward.

- (1) The portion of a net operating loss sustained in any taxable year subsequent to August 1, 1972, allocable to the Village may be applied against the portion of the profit of succeeding tax taxable years allocable to the Village until exhausted but in no event for more than five 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.  
(1978 Code Sec. 281.04)

## 191.05 EXEMPTIONS.

- (a) The tax provided for herein shall not be levied on the following:
- (1) Pay or allowance of active members of the Armed Forces of the United States or in the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities.
  - (2) 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.
  - (3) 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.
  - (4) Receipts from seasonal or casual entertainment, amusements, sport events and health and welfare activities when such are conducted by bona fide charitable, religious or educational organizations and associations.
  - (5) Alimony received.
  - (6) Personal earnings of any natural person under eighteen years of age.
  - (7) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
  - (8) Interest, dividends and other revenue from intangible property.
  - (9) Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State from which the Village is specifically prohibited from taxing and income of a decedent's estate during the period of administration, except such income from the operation of a business.
  - (10) 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.
  - (11) Salaries, wages, commissions and other compensation and net profits, the taxation of which prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the Village to impose net income taxes.  
(1978 Code Sec. 281.05)

## 191.06 RETURNS.

(a) When Returns Required to be Made. Each taxpayer, except as herein provided shall whether or not a tax be due thereon, make and file a return on or before April 30 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 or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commission 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. (EDITOR'S NOTE: Subsection (a) hereof was amended by Ordinance 3-1991 which extended the filing deadline for those serving in the Middle East.)

(b) Form and Content. The return shall be filed with the Administrator on a form or forms furnished by or obtainable 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 such tax.
- (2) The amount of the tax imposed by this chapter on such earnings and profits, and
- (3) Such other pertinent statements, information returns, or other information as the Administrator may require.

(c) Extension of Time for Filing. 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 corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Administrator finds that net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits, to the Village.

- (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 191.04 and 191.05. 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 the filing of 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.  
(1978 Code Sec. 281.06)

191.07 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; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of subsection (b) hereof, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provisions of subsection (c) hereof, or whether an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 191.03, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.
  - (2) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, 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, wages, commissions, or other compensation, the tax of one percent (1%) per annum of the gross salaries, wages, commissions or other compensation due by the employer to such employee and shall, on or before the last day of 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 subsections (b)(3), (4) and (5) hereof. The returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the

- rules and regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes in fact have been withheld.
- (2) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the Village, as a trustee for the benefit of the Village and any such tax collected by such employer from his employees, shall, until the same is paid to the Village be deemed a trust fund in the hands of such employer.
  - (3) Such employer who deducts the tax in an amount of two hundred fifty dollars (\$250.00) 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 such payment 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) Such payment shall be on a form or forms furnished by or obtainable from the Administrator upon request, 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 persons 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.

(c) Declaration of Income Not Collected at Source. Except as provided in this section every person shall file a declaration setting forth taxable income including distributive shares of net profits of unincorporated business entities estimated to be earned by the taxpayer during the current tax year together with the estimated tax due thereon less tax withheld within the Village less the tax credit allowed in Section 191.10(a) and unless such taxpayer anticipates that such tax will be fully withheld within the Village and any income earned outside of the Village will be fully taxed at the same or higher rate of tax in another municipality. If the estimated tax for the current year less the tax to be withheld less such tax credit amounts to not more than ten dollars (\$10.00) no declaration or payment of estimated tax is required.

(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 191.03(a)(5)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, provided, however, credit shall be taken for Village tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.10, credit may be taken for tax to be paid or to be withheld and remitted to another tax municipality.

(2) The original declaration for any subsequent amendment thereof may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(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 and a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year and on or before the last day of the first month of the succeeding year following the taxable year provided however that in case an amended declaration has been filed the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(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 subsection (a) hereof.

(h) Time for Filing. The Administrator may extend the time for filing of any return required, making of any payment, or performing any other act required by this section for a period of time not to exceed six months beyond the original required date.  
(1978 Code Sec. 281.07)

191.08 INTEREST AND PENALTY.

(a) Interest on Unpaid Tax. All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter the ordinances of the Village and remaining unpaid after they become due shall bear interest at the rate of one-half percent ( $\frac{1}{2}\%$ ) per month, 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, one-half percent ( $\frac{1}{2}\%$ ) per month, or fraction thereof.

(2) For failure to remit taxes withheld from employees, ten percent (10%) per month or fraction thereof.

(c) Exceptions. A penalty shall be assessed on an additional tax assessment made by the Administrator against a taxpayer when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator, and provided further, that, in 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 or the Administrator to recommend abatements of penalty and interest the Board may nevertheless abate penalty or interest, or both, for good cause shown.

(e) Violations. Any person who shall:

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

shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(f) Limitation on Prosecution. All prosecutions under this section 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 Forms No Excuse. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(1978 Code Sec. 281.08)

#### 191.09 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENTS.

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

(b) Refunds of Taxes Erroneously Paid. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date 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.

(1978 Code Sec. 281.09)

#### 191.10 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(EDITOR'S NOTE: Former Section 191.10 was repealed by Ordinance 20-2001 adopted July 12, 2001.)

## 191.11 DISBURSEMENT OF RECEIPTS.

- (a) Disbursement of Funds Collected. The funds collected under the provisions of this chapter the ordinances of the Village shall be disbursed in the following manner:
- (1) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.
  - (2) The balance remaining after payment of the expenses referred to in subsection (a)(1) hereof shall be deposited and used in the following manner:
    - A. General Fund 100%  
(Ord. 2-1983. Passed 1-14-83.)

## 191.12 DUTIES AND RESPONSIBILITIES.

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

(b) Duty to Enforce Collection. It shall be the duty of the Administrator to enforce payment of all taxes owing to the Village, to keep accurate records for a maximum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld, and to show the dates and amounts of payments thereof.

(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 the reexamination 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 hardships and 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 due and payable upon demand and the provisions of Section 191.10(a) and Section 191.08(e) 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) Authority to Make Investigations. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(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 or 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 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 in violation of this chapter, punishable as provided in Section 191.08(e).

- (i) Confidential Nature of Information Obtained.

- (1) Any information gained as the result of any returns, investigations, hearings or verifications required or otherwise authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information



in violation of this section, shall, upon conviction thereof, be deemed guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

- (2) In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosures of confidential information shall be guilty of an offense punishable by immediate dismissal.

(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, firm or private 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 the collection of the income tax on behalf of the Village. Such agreement shall be approved by Council.

(l) Assignment of Duties and Authority of the Administrator. In the event the Mayor, on behalf of the Village enters into an agreement with any other municipal corporation, firm or private corporation, to act as agent for the Village for the purpose of administering the income tax laws of the Village and of providing a central facility for the collection of the income tax, as provided in subsection (k) hereof, then all or part of the duties and authority of the Administrator may be assigned by such agreement to such other municipal corporation. Such agreement shall be approved by Council.  
(1978 Code Sec. 281.12)

#### 191.13 BOARD OF REVIEW.

(a) Established. A Board of Review, consisting of the Chairman of the Finance Committee of Council, or a person designated by him, the Solicitor, and a resident elector appointed by 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 shall be conducted privately and the provisions of Section 191.12(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) Duty to Approve Regulations and to Hear Appeals. All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this chapter, shall be approved by the Board of Review, subject to confirmation by Council, before the same

becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer, or Administrator, is empowered to substitute alternate methods of allocation.

(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, and the Board shall, on hearing, having jurisdiction to affirm, reverse, or modify any such ruling or decisions, or any part thereof.  
(1978 Code. Sec. 281.13)

#### 191.14 MISCELLANEOUS PROVISIONS.

(a) 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 are found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, invalidity shall affect only such clause, sentence, section or part of this chapter; shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included therein.

(b) Collection of Tax After Termination of Chapter.

- (1) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated subject to the limitations contained in Sections 191.10(a), (b), (c) and 191.08(e) and (g) hereof.
- (2) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 191.04(a) and 191.06(b) as though the same were continuing.  
(1978 Code Sec. 281.14)