

AN ORDINANCE TO AMEND CHAPTER 181 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF SHAWNEE HILLS, OHIO INCOME TAX.

WHEREAS, the Council of the Village of Shawnee Hills wishes to update their income tax ordinance to be in compliant with state code and

WHEREAS, the Finance Committee and the Village Solicitor have reviewed the changes to the current code and recommend that these changes be made

THEREFORE BE IT ORDAINED by the Council of the Village of Shawnee Hills, a majority of all members elected thereto concurring:

SECTION 1. That Chapter 181.01 through 181.12 be changed to read the following:

**181.01 PURPOSE.**

To provide funds for the purposes of general Municipal operation, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements, the residents of this Municipality have elected by ballot at the general election that there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

**181.02 DEFINITIONS.**

1. For the purposes of this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.
  - (a) "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
    1. Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
    2. Add an amount equal to five percent (5%) of intangible income deducted under subsection 1(a)1 hereof, but excluding that portion of intangible income directly related to the sale, exchange or other disposition of property described in Section 1221 of the Internal Revenue Code.
    3. Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly related to the sale, exchange, or other disposition of an asset described in Sections 1221 or 1231 of the Internal Revenue Code.
    4. (i) Except as provided in subsection (a)4(ii) deduct income and gain included in federal taxable income to the extent the income and gain directly related to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code.
    4. (ii) Subsection (a)4(i) hereof does not apply to the extent the income or gain is described in Section 1245 or 1250 of the Internal Revenue code.
    5. Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
    6. In the case of a real estate investment trust and regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.
    7. If the taxpayer is not a C corporation and is not an individual, the taxpayer shall compute adjusted federal taxable income as if the taxpayer were a C corporation, except:
      - (i) Guaranteed payments and other similar amounts paid or accrued to a partner, former partner, member,

or former member shall not be allowed as a deductible expense; and

(ii) Amounts paid or accrued to a qualified self-employed retirement plan with respect to an owner or owner-employee of the taxpayer, amounts paid or accrued to or for health insurance for an owner or owner-employee, and amounts paid or accrued to or for life insurance for an owner or owner-employee shall not be allowed as a deduction.

Nothing in subsection (a) hereof shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid or accrued for purposes of federal self-employment tax.

Nothing in this Ordinance shall be construed as limiting or removing the ability of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

- (b) "Administrator" means the individual designated by this chapter whether appointed or elected, to administer and enforce the provisions of this chapter.
- (c) "Association" means a partnership, limited partnership, S corporation, or any other form of unincorporated enterprise, owned by two or more persons.
- (d) "Banking day" means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.
- (e) "Board of Review" means the Board created by and constituted as provided in Section 181.12.
- (f) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
- (g) "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.
- (h) "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (i) "Employee" means one who works for qualifying wages, salary, commissions or other type of compensation in the service of an employer.
- (j) "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, qualifying wage, commission, or other compensation basis.
- (k) "Estimated tax liability" means the amount that a taxpayer estimates to be the taxpayer's liability for a municipal corporation's income tax for a year prior to applying any credits, estimated tax payments, or withheld taxes for the year.
- (l) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31st.
- (m) "Fiscal year taxpayer" means a taxpayer that reports municipal income tax on the basis of a twelve month period that does not coincide with the calendar year.
- (n) "Form 5754, Statement by Person(s) Receiving Gambling winnings" means Internal Revenue Service Form 5754 filed by a taxpayer pursuant to the Internal Revenue Code.
- (o) "Form 1099-MISC, Miscellaneous Income" means Internal Revenue Service form 1099-MISC filed by a taxpayer pursuant to the Internal Revenue Code.

- (p) "Form W-2, Wage and Tax Statement" means Internal Revenue Service "Form W-2 filed by a taxpayer pursuant to the Internal Revenue Code.
- (q) "Form W-2G, Certain Gambling Winnings" means Internal Revenue Service Form W-2G filed by a taxpayer pursuant to the Internal Revenue Code.
- (r) "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (s) "Generic Form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income.
- (t) "Gross receipts" means the total revenue derived from sales, work done or services rendered.
- (u) "Income" means all monies and compensation in any form, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:
  - (a) All income, qualifying wages, commissions, and other compensation from whatever source earned and/or received by residents of the Municipality.
  - (b) All income, qualifying wages, commissions, and other compensation from whatsoever source earned and/or received by nonresidents for work done or services performed or rendered or activities conducted in the Municipality.
  - (c) The portion attributable to the municipality of the net profits of all businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality.
- (v) "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (w) "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to: investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation of deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
- (x) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
- (y) "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (z) "Municipality" means the Village of Shawnee Hills, Ohio.
- (aa) "Net Profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Section 181.03(e) required to be reported on federal scheduled C, E, or F.
- (bb) "Non qualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (cc) "Non-resident" means an individual domiciled outside this Municipality.
- (dd) "Non resident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
- (ee) "Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place

- of business within the Municipality.
- (ff) "Other payer" means any person, other than an individual's employer or the employer's agent that pays an individual any amount included in the federal gross income of the individual.
  - (gg) "Owner" means a partner of a partnership, a member of a limited liability company, or other person with an ownership interest in a pass-through entity.
  - (hh) "Owner's proportionate share" with respect to each owner of a pass-through entity, means the ratio of:
    - (1) The owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to
    - (2) The total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
  - (ii) "Pass-through entity" means a partnership, limited liability company, or any other class or entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
  - (jj) "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity shall mean the parties or members thereof, and as applied to corporations, the officers thereof.
  - (kk) "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 any one or more of his regular employees regularly in attendance.
  - (ll) "Principal place of business" means in the case of an employer having headquarters activities at a place of business within a taxing municipality, the place of business at which the headquarters are situated. In the case of any employer not having its headquarters activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
  - (mm) "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.
  - (nn) "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
    - (1) Deduct the following amounts:
      - (A) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code;
      - (B) For purposes of division (b) of this section, any amount included in wages if the amount constitutes payment on account of sickness or accident disability.
    - (2) Add the following amounts:
      - (A) Any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986;
      - (B) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or

- other disposition of stock purchased under a stock option and the municipal corporation has not, by resolution or ordinance, exempted the amount from withholding and tax.
- (C) Any amount not included in wages if the amount is an amount described in section 401(k) or 457 of the Internal Revenue Code.
  - (D) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
  - (E) Deduct any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages and has, by resolution or ordinance, been exempted from taxation by the municipal corporation.
  - (F) Deduct any amount included in wages if the amount arises from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of a stock purchased under a stock option and the municipal corporation has, by resolution or ordinance, exempted the amount from withholding and tax.
- (oo) "Resident" means an individual domiciled in the Municipality.
  - (pp) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
  - (qq) "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report or other document for or on behalf of the taxpayer.
  - (rr) "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
  - (ss) "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
  - (tt) "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
  - (uu) "S Corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
  - (vv) "Tax Administrator" means the individual charged with direct responsibility for administration of a tax on income levied by the Municipality, and includes:
    - (i) The central collection agency and the regional tax agency and their successors in interest, and other entities organized to perform functions similar to those performed by the central collection agency and the regional tax agency.
    - (ii) The Municipality acting as the agent of another Municipal Corporation.
  - (ww) "Taxable income" means qualifying wages, paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Ordinance.
  - (xx) "Taxable Year" means the corresponding tax-reporting period as prescribed for the taxpayer under the Internal Revenue Code. In the case of a return for a fractional part of a year, the period for which such return is required to be

made.

- (yy) "Taxing Municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
- (zz) "Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.

2. The singular shall include the plural, the masculine gender shall include the feminine and the neuter, and all periods set for the shall be inclusive of the first and last mentioned dates.

### **181.03 IMPOSITION OF TAX.**

(a) Subject to the provisions of Section 181.15, an annual tax for the purposes specified in Section 181.01 shall be imposed on and after January 1, 1995, at the rate of two percent (2%) per annum upon the following:

- (1) On all qualifying wages, salaries, including sick, vacation, severance and any pay as part of an employee buyout or wage continuation plan, commissions, lottery winnings, prize moneys, tips and gratuities, and other compensation earned, accrued or in any way set apart unto residents of the Municipality.
- (2) On all qualifying wages, salaries, including sick, vacation, severance and any pay as part of an employee buyout or wage continuation plan, commissions, tips and gratuities, and other compensation earned, received, accrued or in any way set apart unto nonresidents of the Municipality for work done or services performed or rendered in the Municipality.
- (3) On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality. On the portion of the distributive share of the net profits earned by a resident owner or a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity.
- (4) On the portion attributable to the Municipality of the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality. On the portion or the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated entity or pass-through entity.
- (5) On the portion attributable to the Municipality of the net profits earned by all corporations, estates and trusts that are not pass-through entities from work done or services performed or rendered and business or other activities conducted in the Municipality,

- whether or not such corporation have an office or place of business in the Municipality.
- (6) On all income received as gambling winnings as reported on Internal Revenue Service Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.
- (b) The portion of the net profits attributable to this Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this Municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.
- (c) Net Operating Loss. If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.
- (d) Consolidated Returns.
- (1) Filing of consolidated returns shall be accepted from any affiliated group of corporations subject to the municipal corporation's tax if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
  - (2) In the case of a corporation that carries 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 this Municipality 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 this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality 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 this Municipality.
  - (3) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation formula.
- (e) Exclusions. The provisions of this Chapter shall not be construed as levying a tax upon the following:
- (1) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States or the National Guard.
  - (2) Poor relief, unemployment insurance benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations.
  - (3) Proceeds of insurance, annuities, workman's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits or, punitive damages.
  - (4) Compensation for damage to property by way of insurance or otherwise.

- (5) Interest dividends from intangible property.
- (6) The net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under said section.
- (7) Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Ohio R.C. 718.01 which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this chapter.
- (8) Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this chapter on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.
- (9) Where such non-profit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to this municipality under the method or methods provided above.
- (10) Salaries, wages, commissions, and other compensations earned by persons under eighteen years of age.
- (11) Compensation paid under Sections 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000.00) annually. Such compensation in excess of one thousand dollars (\$1,000.00) may be subjected to taxation. The payer of such compensation is not required to withhold Municipal tax from that compensation.
- (12) Compensation paid to an employee of a transit authority, regional transit authority, or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subjected to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
- (13) The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
  - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid such services.
  - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event or an employee of such a promoter, all as may be reasonably defined by the Municipality.
- (14) The income of a public utility, when that public utility is subject to



the tax levied under Sections 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter 5745 of the Ohio Revised Code:

- a. The income of an electric company or combined company.
  - b. The income of a telephone company.
- As used in subsection (e)(14) hereof, "combine company", "electric company", and "telephone company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
- (15) An S corporation shareholder's distributive share of net profits or losses of the S corporation.
  - (16) Employee compensation that is not "qualifying wages" as defined in Section 718.03 of the Ohio Revised Code.
  - (17) Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

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

Such taxes 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 or after January 1, 1995.

#### **181.05 RETURN AND PAYMENT OF TAX.**

(a) Each taxpayer, except as herein provided, shall whether or not a tax be due thereon, make and file a return on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within 105 days from the end of such fiscal year or period. The Tax Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Tax Administrator shall be accepted unless otherwise specified 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) The return shall be filed with the Tax Administrator on a form or forms furnished by or obtainable upon request from the Tax Administrator, or on an acceptable generic form as defined in this ordinance, 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 ordinary, reasonable, and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said 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) Extensions.

- (1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return by filing a copy of the taxpayer's federal extension request with the Tax Administrator. Any taxpayer not required to file a federal income tax return may request an extension for filing a municipal income tax return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day

of the month following the month to which the due date of the federal income tax return has been extended.

(2) The Tax Administrator may deny a taxpayer's request for extension if the taxpayer:

- A. Fails to timely file the request; or
- B. Fails to file a copy of the federal extension request (if applicable); or
- C. Owes the Municipality any delinquent income tax return, report, or other related document for a prior tax period.
- D. Has failed to file any required income tax return, report or other related documents for a prior tax period.

(3) The granting or an extension for filing a Municipal tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 181.10. No penalty shall be assessed in those cases in which the return is filed within the extension period provided all other filing and payment requirements of the Tax code have been met. Any extension shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

- (d) (1) The taxpayer making return shall, at the time of the filing thereof, pay to the Tax 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 Section 181.06 or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.14, 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 said return.
- (2) A taxpayer who has overpaid the amount of tax to which this Municipality 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.

(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 and/or limitations contained in Sections 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Tax Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing the income subject to the income tax of this Municipality based upon such final determination of federal tax liability,

and pay any additional tax as shown due thereon or make claim for refund of any overpayment.

(f) Employee Business Expenses, as defined on Federal Form 2106 are not a deductible item against income subject to Village taxation.

(g) Amounts received as moving expense reimbursements are to be included in full as taxable income. No deduction is permitted against taxable income for any Form 1040, Schedule A, itemized deduction.

#### **181.06 COLLECTION AT SOURCE.**

(a) In accordance with Rules and Regulations prescribed by the Tax Administrator, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) of the gross salaries, wages, commissions or other compensation due by the said employer to said employee or the tips or gratuities reported to said employer by each said employee for social security or federal income tax purposes and shall pay to the Municipality all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

- (1) Semimonthly payments of the taxes deducted are to be made by an employer if:
  - A. The total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or
  - B. The amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be made to the Municipality within five banking days after the fifteenth and the last day of each month.
- (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than one thousand one hundred ninety nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be made to the Municipality within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this subsection need not be paid until the last day of the month following such quarter.
- (3) All employers not required to make semimonthly or monthly payments of taxes withheld under subsections (1) and (2) hereof shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (4) Each employer who maintains a place of business in the Municipality and another branch within the metropolitan area of the Municipality must also withhold the tax from employees residing in the Municipality but working at the employer's metropolitan area branch even though the payroll records and place of payment are outside the Municipality. The employer shall make and file a return on a form furnished by the Administrator or his delegate, showing the amount of tax deducted by such employer from the salaries, wages, commissions, lottery winnings, prize monies, tips and gratuities, and other compensation returned by such employer.
  - A. Where a resident of the Municipality performs services for this employer in another municipality, which services are subject to withholding in the other municipality, the

- employer shall have the authority to reduce the withholding to the Municipality to the extent of the tax liability in the other municipality.
- B. The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.
  - C. Said returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator and shall be subject to the Rules and Regulations prescribed therefore by the Tax 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.

(b) 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. Every employer or officer of a corporation is deemed to be a trustee for this Municipality in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds. Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to this Municipality, as a Trustee for the benefit of this Municipality and any such tax collected by such employer from his employees, shall, until the same is paid to this Municipality, be deemed a trust fund in the hands of such employer.

(c) Each employer, on or before January 31, unless written request for thirty (30) days extension is made to and granted by the Municipality following any calendar year in which such deductions have been made, or should have been made by an employer, shall file withholding return for each employee from whom income tax has been or should have been withheld showing the name, address, zip code and social security number of each such employee, the total amount of salaries, wages, commissions, lottery winnings, prize moneys, tips and gratuities, and other compensation paid the employee during the year and the amount of municipal income tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information in the Municipality concerning each employee.

(d) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office.

(e) In addition to the wage reporting requirements of this section, any person required by the Internal Revenue Service to report on form 1099-Misc payments to individuals not treated as employees for service performed shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal Form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28 following the end of such calendar year.

(f) All officers, members, managers, trustees, and/or employees having control or supervision of or charged with the responsibility of filing the report and making the payment are personally and jointly and severally liable for failure to file the report or pay the tax due as required by this section. The dissolution, termination, and/or bankruptcy of a corporation, limited liability company, business, trust, or association does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay a tax due.

#### **181.07 DECLARATION.**

(a) Requirements for Filing. Every person who anticipates any taxable income which is not subject to Section 181.06 or who engages in

any business, profession, enterprise or activity subject to the tax imposed by Section 181.03(a)(4) and (5) 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; provided, however, if a person's income is wholly from qualifying wages, from which the tax will be withheld and remitted to the Municipality in accordance with Section 181.06, such person need not file a declaration.

(b) Dates for Filing.

- (1) Such declaration shall be filed on or before April 15 of each year during the life of this Ordinance, or on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month following the date the taxpayer becomes subject to tax for the first time.
  - (2) Those taxpayers having a fiscal year or period differing from the calendar year basis shall file a declaration on or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) month after the beginning of each fiscal year period.
- (c) Forms; Credit for Tax Withheld or Paid by Another Municipality. Such declaration shall be filed upon a form furnished by, or obtainable from, the Municipality provided, however credit shall be taken for the municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.14, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.
  - (d) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment day as provided herein. In the event 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.
  - (e) For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the seventh (7<sup>th</sup>), tenth (10<sup>th</sup>) and thirteenth (13<sup>th</sup>) months after the beginning of the taxable year.
  - (f) For taxpayers who are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax and at least a similar amount shall be paid on or before the fifteenth (15<sup>th</sup>) day of the sixth (6<sup>th</sup>), ninth (9<sup>th</sup>) and twelfth (12<sup>th</sup>) months after the beginning of the year.
  - (g) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.
  - (h) On or before the fifteenth (15<sup>th</sup>) day of the fourth (4<sup>th</sup>) 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 Municipality shall be paid therewith in accordance with the provision of Section 181.05.
  - (i) An entity (individual, corporate or association) may pay one hundred percent (100%) of the year's tax in four (4) equal installments in the current year and avoid any underpayment of estimated tax penalty. Prior year tax of zero or a prior year loss will not avoid a penalty. No penalty for failure to pay estimated tax will apply to an entity whose tax for the year, after credit for tax withheld, is less than one hundred

- (j) dollars (\$100.00). A declaration of estimated tax which is less than ninety percent (90%) of the tax shown to be due on the final return shall not be considered in good faith. The difference shall be subject to penalties and interest as provided for in Section 181.10.
- (k) The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

**181.08 DUTIES OF THE ADMINISTRATOR.**

- (a) (1) It shall be the duty of the Tax Administrator for the Village of Shawnee Hills 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 monies so received.
- (2) It shall be the duty of the Tax Administrator to enforce payment of all taxes owing this Municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

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

The Tax 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 Tax Administrator that due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 181.11 and 181.99 shall apply.

(c) 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 Tax Administrator may determine the amount of tax appearing to be due this Municipality 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.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10.

**181.09 INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) The Tax Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal and state income tax returns of any employer or of any taxpayer or person subject to, or whom the Tax 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.

(b) The Tax 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 reported for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal and state 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.

(c) The refusal to produce books, papers, records and federal and state income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 181.99.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Tax Administrator, required by this chapter or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of this Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) 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.

#### **181.10 INTEREST AND PENALTIES.**

(a) 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 one and one half per cent (1-1/2%) per month or fraction thereof.

(b) 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 and one half percent (1-1/2%) per month or fraction thereof.
- (2) For failure to remit taxes: ten percent (10%) of the balance due.

(c) Upon recommendation of the Tax 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/or interest, the Board may nevertheless abate penalty or interest, or both.

#### **181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER PAYMENTS.**

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover Municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim

for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in subsection (a) hereof.

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

#### **181.12 BOARD OF REVIEW.**

(a) A Board of Review, consisting of a chairman and two other individuals to be appointed by Village Council with a recommendation from the Finance Committee is hereby created. 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 181.09, 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) All rules and regulations and amendments or changes thereto, which are adopted by the Tax 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 Tax Administrator, or its delegate, and, at the request of the taxpayer or Municipality, is empowered to substitute alternate methods of apportionment. After such approval, such rules, regulation and changes shall be filed with the Clerk and shall be open to public inspection.

(c) Whenever the Tax Administrator or its delegate issue a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Administrator or its delegate shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

(d) Any person who is aggrieved by a decision of the Tax Administrator or its delegate and who has filed with the Tax Administrator the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Administrator has issued the decision.

(e) The imposition of penalty and interest as prescribed in the Codified Ordinances of the Municipality is not a sole basis for an appeal.

(f) The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board, be represented by an attorney at law, certified public accountant or other represented, and present evidence and argument as to why the taxpayer believes the decision should be deemed incorrect or unlawful.

(g) The Board of Review may affirm, reverse, or modify the decision or any part of that decision. The Board shall issue a written decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to appeal within fifteen (15) days after issuing the decision. The taxpayer or the Municipality or its delegate may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.

(h) The Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection



under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of the public body subject to Section 121.22 of the Ohio Revised Code.

SECTION 2. That all ordinances and resolutions or parts of all ordinances and resolutions inconsistent herewith be and are hereby repealed and this ordinance shall take affect according to law.

First Reading: October 26, 2009

Second Reading: November 9, 2009

Third Reading: November 23, 2009

Vote on Ordinance: yea, 6: Callender, Ceckitti, Clippinger, Fellure, Love and Vedell Nay, none.

Passed: November 23, 2009

Attest: \_\_\_\_\_  
Fiscal Officer Mayor

#### Certification

I, Shirley A Roskoski, Fiscal Officer for the Village of Shawnee Hills, Delaware County, State of Ohio, do hereby certify that copies of the forgoing Ordinance were posted in accordance with Section 731.25 of the Ohio Revised Code.

\_\_\_\_\_  
Fiscal Officer

**TITLE NINE - Taxation**  
 Chap. 181. Income Tax.  
 Chap. 183. Motor Vehicle License Tax.

---

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

<b>181.01 Purpose.</b>	<b>181.10 Interest and penalties.</b>
<b>181.02 Definitions.</b>	<b>181.11 Collection of unpaid taxes and refunds of over payments.</b>
<b>181.03 Imposition of tax.</b>	<b>181.12 Board of Review.</b>
<b>181.04 Effective period.</b>	<b>181.13 Allocation of funds.</b>
<b>181.05 Return and payment of tax.</b>	<b>181.14 Credit for tax paid to another municipality.</b>
<b>181.06 Collection at source.</b>	<b>181.15 Saving clause.</b>
<b>181.07 Declaration.</b>	<b>181.16 Collection of tax after termination of chapter.</b>
<b>181.08 Duties of the administrator.</b>	<b>181.99 Penalty.</b>
<b>181.09 Investigative powers of the administrator; penalty for divulging confidential information.</b>	

---

**181.01 PURPOSE.**

To provide funds for the purposes of general Municipal operation, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements, the residents of this Municipality have elected by ballot at the general election that there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. (Ord. 12-94. Passed 12-22-94.)

**181.02 DEFINITIONS.**

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated by this chapter whether appointed or elected, to administer and enforce the provisions of this chapter.
- (b) "Association" means a 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 181.12.
- (d) "Business" means an 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, including but not limited to the renting or leasing of property, real, personal or mixed.
- (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 an employer.
- (g) "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 compensation basis.
- (h) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31st.
- (i) "Gross receipts" means the total income from any source whatsoever.
- (j) "Net profits" mean a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable 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 exclusive of the amount of Ohio franchise tax computed on the net worth basis; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.
- (k) "Non-resident" means an individual domiciled outside this Municipality.
- (l) "Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place of business within this Municipality.
- (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 corporations, 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 this Municipality or whose usual place of abode is in the Municipality.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within this Municipality.
- (q) "Taxable income" means wages, salaries, and other compensation paid by an employer of employees before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.
- (r) "Taxable Year" means the calendar year, or the fiscal year upon the basis of which 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.  
(Ord. 12-94. Passed 12-22-94.)

**181.03 IMPOSITION OF TAX.**

(a) Subject to the provisions of Section 181.15, an annual tax for the purposes specified in Section 181.01 shall be imposed on and after January 1, 1995, at the rate of two percent (2%) ~~per~~ annum upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by residents of this Municipality.
- (2) On all salaries, wages, commissions and other compensation earned during the effective period of this chapter by non-residents for work done or services performed or rendered in this Municipality.
- (3) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality.  
B. On the portion of distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (4) A. On the portion attributable to this Municipality of the net profits earned during the effective period of this chapter of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.  
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident unincorporated business entity not attributable to this Municipality and not levied against such unincorporated business entity by this Municipality.
- (5) On the portion attributable to this Municipality, or the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this Municipality, whether or not such corporations have an office or place of business in this Municipality.

(b) The portion of the net profits attributable to this Municipality of a taxpayer conducting a business, profession or other activity both within and without the boundaries of this Municipality shall be determined as provided in Ohio R.C. 718.02 and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Net Operating Loss. If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted, required or denied in accordance with Rules and Regulations prescribed by the Administrator.
- (2) In the case of a corporation that carries 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 this Municipality 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 this Municipality. If the Administrator finds net profits are not properly allocated to this Municipality 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 this Municipality.
- (3) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation formula.

(e) Exceptions.

---

The following shall not be considered taxable.

- (1) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under said section.
- (2) Poor relief, unemployment insurance benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations.
- (3) Proceeds of insurance, annuities, workman's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits or, punitive damages.
- (4) Compensation for damage to property by way of insurance or otherwise.
- (5) Interest dividends from intangible property.
- (6) Military pay and allowance received as a member of the armed forces of the United States.
- (7) Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Ohio R.C. 718.01 which is exempt from payment of real estate taxes is exempt from payment of the tax imposed by this chapter.
- (8) Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is required to file declarations and final returns and remit the taxes levied under this chapter on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.

- (9) Where such non-profit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to this municipality under the method or methods provided above.
- (10) Salaries, wages, commissions, and other compensations earned by persons under eighteen years of age. (Ord. 12-94. Passed 12-22-94.)

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

Such taxes 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 or after January 1, 1995.

#### **181.05 RETURN AND PAYMENT OF TAX.**

(a) Each taxpayer, except as herein provided, shall whether or not a tax be due thereon, make and file a return on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within 105 days 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 said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified 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) 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 ordinary, reasonable, and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said 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) 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 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.

- (d) (1) The taxpayer making 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 Section 181.06 or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 181.14 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 said return.

- (2) A taxpayer who has overpaid the amount of tax to which this Municipality 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.
- (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 and/or limitations contained in Sections 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
  - (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this Municipality, such taxpayer shall make and file an amended return showing the income subject to the income tax of this Municipality based upon such final determination of federal tax liability, and pay any additional tax as shown due thereon or make claim for refund of any overpayment.
- (f) Employee Business Expenses, as defined on Federal Form 2106 are not a deductible item against income subject to Village taxation.
- (g) Amounts received as moving expense reimbursements are to be included in full as taxable income. No deduction is permitted against taxable income for any Form 1040, Schedule A, itemized deduction. (Ord. 12-94. Passed 12-22-94.)

#### **181.06 COLLECTION AT SOURCE.**

(a) In accordance with Rules and Regulations prescribed by the Administrator, each employer within or doing business within this Municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of two percent (2%) of the gross salaries, wages, commissions or other compensation due by the said employer to said employee or the tips or gratuities reported to said employer by each said employee for social security or federal income tax purposes and shall pay to the Municipality all income taxes withheld or required to be deducted and withheld on either a semimonthly, monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule:

- (1) Semimonthly payments of the taxes deducted are to be made by an employer if:
  - A. The total taxes deducted in the prior calendar year were twelve thousand dollars (\$12,000) or more, or
  - B. The amount of taxes deducted for any month in the preceding quarter exceeded one thousand dollars (\$1,000). Such payment shall be made to the Municipality within five banking days after the fifteenth and the last day of each month.

- (2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were less than twelve thousand dollars (\$12,000) but more than one thousand one hundred ninety nine dollars (\$1,199) or if the taxes withheld during any month for the preceding quarter exceeded one hundred dollars (\$100.00). Such payments shall be made to the Municipality within fifteen days after the close of each calendar month. However, those taxes accumulated for the third month of a calendar quarter by employers making monthly payments pursuant to this subsection need not be paid until the last day of the month following such quarter.
- (3) All employers not required to make semimonthly or monthly payments of taxes withheld under subsections (1) and (2) hereof shall make quarterly payments no later than the last day of the month following the end of each quarter.
- (4) Each employer who maintains a place of business in the Municipality and another branch within the metropolitan area of the Municipality must also withhold the tax from employees residing in the Municipality but working at the employer's metropolitan area branch even though the payroll records and place of payment are outside the Municipality. The employer shall make and file a return on a form furnished by the Administrator or his delegate, showing the amount of tax deducted by such employer from the salaries, wages, commissions, lottery winnings, prize monies, tips and gratuities, and other compensation returned by such employer.
  - A. Where a resident of the Municipality performs services for this employer in another municipality, which services are subject to withholding in the other municipality, the employer shall have the authority to reduce the withholding to the Municipality to the extent of the tax liability in the other municipality.
  - B. The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment, is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.
  - C. Said returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the Rules and Regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) 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. Every employer or officer of a corporation is deemed to be a trustee for this Municipality in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds. Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to this Municipality, as a Trustee for the benefit of this Municipality and any such tax collected by such employer from his employees, shall, until the same is paid to this Municipality, be deemed a trust fund in the hands of such employer.



(c) On or before January 31 of each year beginning with the year 1996, each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payment subject to withholding shall be reported on a form required by the Administrator.

(d) The Tax Administrator for good cause may require immediate returns and payments to be submitted to his office. (Ord. 12-94. Passed 12-22-94.)

#### **181.07 DECLARATION.**

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 hereof 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; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to this Municipality in accordance with Section 181.06 hereof, such person need not file a declaration.

- (b)
  - (1) Such declaration shall be filed on or before April 15 of each year during the life of this ordinance, or within 105 days 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.
- (c)
  - (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however credit shall be taken for this Municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.14 hereof, 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 and provided for herein.

(d) Such declaration or estimated tax to be paid this Municipality shall be accompanied by a payment of at least one fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth months after the beginning of 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.

(e) On or before the 15th 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 this Municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof. (Ord. 12-94. Passed 12-22-94.)

**181.08 DUTIES OF THE ADMINISTRATOR.**

- (a) (1) It shall be the duty of the Tax Administrator for the Village of Shawnee Hills 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 monies so received.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing this Municipality, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

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

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

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 181.11 and 181.99 shall apply.

(c) 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 this Municipality 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.

(d) Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10. (Ord. 12-94. Passed 12-22-94.)

**181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) 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.

(b) 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 reported 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.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 181.99.

(d) Any information gained as a result of any returns, investigations, verifications or hearings before the Administrator, required by this chapter or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of this Municipality who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed, or the withholding taxes are paid.  
(Ord. 12-94. Passed 12-22-94.)

#### **181.10 INTEREST AND PENALTIES.**

(a) 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 one and one half per cent (1-1/2%) per month or fraction thereof.

(b) 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 and one half percent (1-1/2%) per month or fraction thereof.
- (2) For failure to remit taxes: ten percent (10%) of the balance due.

(c) 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/or interest, the Board may nevertheless abate penalty or interest, or both. (Ord. 12-94. Passed 12-22-94.)

#### **181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVER PAYMENTS.**

(a) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover Municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later.

(b) Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in subsection (a) hereof.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded.  
(Ord. 12-94. Passed 12-22-94.)

**181.12 BOARD OF REVIEW.**

(a) A Board of Review, consisting of a chairman and two other individuals to be appointed by Council is hereby created. 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 181.09 hereof 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) 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) 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 decision, or any part thereof. (Ord. 12-94. Passed 12-22-94.)

**181.13 ALLOCATION OF FUNDS.**

Direct deposit to the Village of Shawnee Hill's General Fund.  
(Ord. 12-94. Passed 12-22-94.)

**181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.**

When the taxable income of a resident of this Municipality is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality of up to one and three quarter percent (1.75%) of that amount as determined by multiplying the lower of the tax rate of such other municipality or of this Municipality by the taxable income earned in or attributable to the municipality of employment or business activity. For the purpose of this section taxable income shall include the distributive share or net profits of a resident, partner or owner of an unincorporated business entity.  
(Ord. 12-94. Passed 12-22-94.)

**181.15 SAVING CLAUSE.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.  
(Ord. 12-94. Passed 12-22-94.)

**181.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.99 hereof.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.05 and 181.06 as though the same were continuing.

**181.99 PENALTY.**

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter; or
- (4) Willfully 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 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; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and this Municipality's income tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter;

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

(b) Prosecutions for an offense made punishable under this section or any other provision of this chapter shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse himself from making any information return, return or declaration, from filing such form, or from paying the tax. (Ord. 12-94. Passed 12-22-94.)