

CHAPTER 183 Income Tax Regulations

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|--------|--|--------|--|
| 183.01 | Definitions. | 183.19 | Payment of tax installments. |
| 183.02 | Commencement of the tax. | 183.20 | Reciprocity. |
| 183.03 | Imposition of tax; resident employees. | 183.11 | Inquisitorial powers of Tax Administrator. |
| 183.04 | Imposition of tax; nonresidents. | 183.22 | Records to be kept by employers and taxpayers. |
| 183.05 | Imposition of tax; net business profits; residents. | 183.23 | Collection of deficiencies; allowance of credit for overpayment. |
| 183.06 | Imposition of tax; net business profits; non- residents. | 183.24 | Penalty for divulging confidential information. |
| 183.07 | Imposition of tax; net business profits; corporations. | 183.25 | Interest and penalties. |
| 183.08 | Business allocation percentage. | 183.26 | Collection of unpaid taxes. |
| 183.09 | On what earnings or net profits tax first levied. | 183.27 | Violations; penalties. |
| 183.10 | Fiscal years. | 183.28 | Board of Review. |
| 183.11 | Net business profits. | 183.29 | Applicability. |
| 183.12 | Reconciliation with Federal return. | 183.30 | Construction; separability of provisions. |
| 183.13 | Return and payment of tax. | 183.31 | Consolidated returns. |
| 183.14 | Collection at source. | 183.32 | Split payrolls. |
| 183.15 | Returns of tax withheld and payment. | 183.33 | Withholding statements. |
| 183.16 | Limitation on credit for tax paid at source. | 183.34 | Vacation pay. |
| 183.17 | Status and liability of employers. | 183.35 | Business loss set-off. |
| 183.18 | Declarations. | | |

183.01 DEFINITIONS.

For the purpose of these regulations, the following terms shall have the definitions hereafter given.

- (a) "Taxpayer" means a person whether an individual, partnership, corporation, association or other entity.
- (b) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- (d) "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.
- (e) "Employee" means an individual whose earnings are subject to the withholding of Federal income tax or Social Security tax.
- (f) "Employer" means an individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Net profits" means the net gain from the operation of a business, profession or enterprise after provision for all costs and expenses incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserves for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deductions of Federal taxes based on income, and without deducting taxes imposed by this chapter.
- (h) "Nonresident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled outside the Village.
- (i) "Person" means every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to association means the partners or members thereof, and as applied to corporations, the officers thereof.
- (j) "Resident" means an individual, partnership, limited partnership, corporation, association or other entity domiciled in the Village.
- (k) "Other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the Village.
- (l) "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.
A taxpayer does not have a regular place of business outside the Village solely by consigning goods to an independent factor or contractor outside the Village for sale.
- (m) "Business Allocation Percentage" means the average percentage arrived at by applying the formula set forth in Section 181.03(b), the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to be allocated as having been made within the Village within the meaning of the provisions of Section 181.03(b).
- (n) "The Ordinance" means Ordinance No. 1195-88, enacted by the Middleport Village Council, Ohio, on April 11, 1988 and any amendments or supplements thereto. (Ord. 1195-88. Passed 4-11-88.)

183.02 COMMENCEMENT OF THE TAX.

The tax imposed by the chapter is effective as to income and profits earned or accruing on and after July 1, 1988 and payroll deductions must be made against all salaries, wages, commissions, bonuses and other compensations earned or accruing on and after that date. (Ord. 1195-88. Passed 4-11-88.)

183.03 IMPOSITION OF TAX; RESIDENT EMPLOYEES.

In the case of the residents of the Village, an annual tax of one percent (1%) is imposed on all salaries, wages, commissions and other compensation earned and accrued on and after July 1, 1988. For the purpose of determining the tax on the earnings of the resident taxpayers taxed under Section 181.03, the source of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings, wherever earned or paid are taxable.

The following are items which are subject to the tax:

- (a) Salaries, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property for services rendered on and after July 1, 1988.
 - (1) As an officer or employee, or both, of a corporation (including charitable and other non-profit corporations), joint stock association or joint stock company.
 - (2) As an employee (as distinguished from a partner or member) of a partnership, limited partnership or any other form of unincorporated enterprise owned by one or more persons.
 - (3) As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by individual owner.
 - (4) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the State of Ohio or any of the political subdivisions thereof.
 - (5) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the United States Government or of a corporation created and owned or controlled by the United States Government or any of its agencies.
 - (6) As an employee of any other entity or person.
- (b) Wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after July 1, 1988.
 - (1) Whether based upon hourly, daily, weekly, semi-monthly, monthly, annual, unit of production or piecework rates.
 - (2) Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section or unit or any other entity.
- (c) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after July 1, 1988, regardless of how computed, by whom or wheresoever paid.
 - (1) If amounts received as a drawing account exceed the commissions earned, the tax is payable on the gross amounts received.

- (2) Amounts received from the employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose of determining his net profits taxable under this chapter.
- (3) If such commissions are included in the net earnings of a trade, business, profession, enterprise or activity regularly carried on by such individual and, therefore, subject to tax under Section 181.03(a). They shall not again be separately taxed, in such case, such net earnings shall be taxed as provided in Section 183.11.
- (d) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to taxation under this chapter.
- (e) Domestic servants are subject to Village tax under this chapter but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Middleport Income Tax Department.
- (f) The provisions of this chapter shall not be construed as levying a tax upon the following:
 - (1) Poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, State or Federal governments or charitable or religious organizations.
 - (2) Proceeds of insurance, annuities, Workers' Compensation insurance, Social Security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.
 - (3) Compensation for damages to property by way of insurance or otherwise.
 - (4) Interest and dividends from intangible property.
 - (5) Military pay and allowances received by a member of the Armed Forces of the United States.
 - (6) 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 the tax imposed by this chapter.
 - (7) 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.
 - (8) 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 the Village under the methods provided above.
(Ord. 1195-88. Passed 4-11-88.)

183.04 IMPOSITION OF TAX; NONRESIDENTS.

(a) In the case of individuals who are nonresidents of the Village, there is imposed under this chapter an annual tax of one percent (1%) on all salaries, wages, commissions and other compensation, earned or accruing on and after July 1, 1988, for work done or service performed or rendered within the Village, whether such compensation or reimbursement is received or earned directly or through an agent and whether paid in cash or in property.

(b) The items subject to tax under this section are the same as those listed and defined in Section 183.03. For methods of computing the extent of such work or services performed within the Village, and cases involving compensation for personal services partly within and partly outside the Village, see Section 183.14.

(Ord. 1195-88. Passed 4-11-88).

183.05 IMPOSITION OF TAX; NET BUSINESS PROFITS; RESIDENTS.

(a) In the case of trades, businesses, professions, other activities, enterprises, or undertakings conducted, operated, engaged in, prosecuted or carried on by residents of the Village, there is imposed an annual tax of one percent (1%) on the net profits earned or accruing on or after July 1, 1988.

(b) For the purpose of construing Section 181.03, the term "residents" in the phrase conducted by residents of the Village shall ordinarily be construed to have references to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.

(c) Generally, a partnership, association or other unincorporated enterprise owned by two or more persons will be taxed as an entity. However, in the case of a non-resident partnership, association or unincorporated enterprise which cannot be reached or taxed directly by the Village, or if only part of its earnings may be directly taxed, then in either such case, resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon.

(d) The tax imposed under Section 181.03 is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the Village.

(Ord. 1195-88. Passed 4-11-88.)

183.06 IMPOSITION OF TAX; NET BUSINESS PROFITS; NONRESIDENTS.

(a) In the case of a nonresident individual, partnership, association, fiduciary or other entity (other than a corporation) engaged in the conduct, operation or prosecution of any trade, business, profession, enterprise, undertaking or other activity, there is imposed an annual tax of one percent (1%) earned or accruing on and after July 1, 1988 of such trade, business, profession, enterprise, undertaking or other activity if and to the extent conducted in or derived from activity in the Village.

(b) A nonresident entity within the meaning of Section 181.03 which has a branch or branches, office or offices and/or store or stores, warehouse or other place or places in which the entity's business is transacted, located in the Village, shall be considered to be conducting, operating, prosecuting or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through the Middleport branch, office, store, warehouse, or other place of business including:

- (1) Billings made on such transactions; or
- (2) Services rendered; or
- (3) Shipments made; or
- (4) Goods, chattels, merchandise, etc., sold; or
- (5) Commissions, fees, other remuneration or payments earned.

(c) In the case of the partnership, association or other unincorporated business owned by one or more persons, the tax generally, shall be upon such partnership, association or business enterprise as an entity and not ordinarily upon the partners or members thereof. However, the provisions of Section 183.05 are applicable to render taxable against such resident partners or member their distributive share of any profits of such nonresident entity not taxable under this chapter.

(d) In determining the proportion or amount of the taxable net profits of non-resident business entity having a place or places of business within and outside the Village, such business entity may, at its option, use and apply the business allocation percentage formula set forth in Section 181.03. For explanation of formula, see Section 183.08. (Ord. 1195-88. Passed 4-11-88.)

183.07 IMPOSITION OF TAX; NET BUSINESS PROFITS; CORPORATIONS.

(a) In the case of a corporation doing business in Middleport whether domestic or foreign, and whether domiciled in Middleport, or elsewhere, there is imposed an annual tax of one percent (1%) on that part of the corporations which is earned by such corporations as a result of work done or services performed or rendered and business or other activities conducted in the Village.

(b) The provisions of Section 183.06 are applicable to such corporations.

(c) A corporation doing business both within and outside the Village may in determining the part of the net profits which are taxable under this chapter, at its option:

- (1) Use the usual accounting system of the taxpayer corporation, so long as the usual accounting system shall be one acceptable to the U.S. Internal Revenue Department as evidenced by acceptance and approval of income tax returns filed herein, or
- (2) Use the business allocation percentage formula set forth in Section 181.03. (Ord. 1195-88. Passed 4-11-88.)

183.08 BUSINESS ALLOCATION PERCENTAGE.

(a) At the option of a corporate taxpayer or of a nonresident business entity, such taxpayers may, but are not obligated to, use the formula set forth in Section 181.03 to compute the percentage of their entire net profits (derived from activities both within and outside the Village) which is taxable under the chapter, and to determine the tax payable to the Village thereunder.

If the taxpayer did not have a place of business outside Middleport during the period covered by the declaration and/or return required under the chapter, its business allocation percentage is one hundred percent (100%), in other words, the taxpayer is required to pay a tax of one percent (1%) on the entire net profits of the business.

If the taxpayer had a place of business outside of Middleport and was doing business in Middleport during such period the business allocation percentage shall be computed on the following basis:

- (1) In the taxation of income which is subject to taxation by the provisions of this chapter, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village, shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village. Then only such portion shall be considered as having a taxable situs in the Village for purposes of Village income taxation. In the absence of such records, net profit from a business or profession conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for the purpose of Village income taxation in the same proportion as the average ratio of
- A. The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.
 - B. Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
 - C. Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village to gross receipts of the business or profession during the same period from sales and services wherever made or performed.
- In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted so as to produce such result.
- (2) As used in subsection (a)(1)C., "sales made in the Village" means:
- A. All sales of tangible personal property delivered within the Village regardless of where title passes if shipped or delivered from stock or goods within the Municipal Corporation.
 - B. All sales of tangible personal property delivered within the Village regardless of where title passes, even though transported from a point outside the Village, if the taxpayer is regularly engaged through its own employees, in the solicitation, or promotion of sales which result from such solicitation or promotion.
 - C. All sales of tangible personal property shipped from a place within the Village to purchasers outside the Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

The business allocation percentage is computed by determining the percentages (1) which Middleport real and tangible personal property bears to all real and tangible personal property (including that situated in Middleport) of taxpayer wheresoever situated; (2) which Middleport business sales bear to taxpayer's entire business sales wheresoever derived (including those derived from Middleport) and (3) which payrolls paid by taxpayer within Middleport bear to taxpayer's entire payroll wheresoever paid (including Middleport payrolls), adding together the three percentages so arrived at and dividing the total by 3.

However, if one of the factors (property sales and payrolls) is missing, the other two percentages are added and the sum is divided by 2, and if 2 of the factors are missing, the remaining percentage is the business allocation percentage.

EXAMPLE 1:

Corporation having places of business in Middleport, Detroit and Cleveland.

Middleport real and tangible personal property: \$10,000.00

All real and personal property (Middleport, Detroit, Cleveland) \$100,00.00

Percentage: 10 percent

Middleport sales: \$15,000

All sales: \$75,000

Percentage: 20 percent

Middleport payroll: \$6,000

All payroll: \$20,000

Percentage: 30 percent

Business allocation percentage: 10 percent plus 20 percent plus 30 percent over 3 equals 20 percent.

EXAMPLE 2:

Same corporation owning real and tangible personal property anywhere:

Middleport sales: \$15,000

All sales: \$75,000

Percentage: 20 percent

Middleport payroll: \$6,000

All payroll: \$20,000

Percentage: 30 percent

Business allocation percentage: 20 percent plus 30 percent over 2 equals 25 percent.

EXAMPLE 3:

Same corporation owning real and tangible personal property in Middleport valued at \$10,000 and owning no real and tangible personal property outside Middleport.

Other factors same as in Example 1 and 2.

Business allocation percentage: 100 percent plus 20 percent plus 30 percent over 3 equals 50 percent.

After determining such business allocation percentage, the tax shall be determined by applying that percentage to the entire net profits of the taxpayer, wherever derived (thus arriving at the taxable net profit), and computing one percent (1%) of the resultant taxable net profit.

In case it should appear to the Village Tax Administrator that: any agreement, understanding or arrangement exists between the taxpayer and any other person, firm or corporation, whereby the activity, business, income or capital of the taxpayer is improperly or inaccurately reflected, the Village Tax Administrator may adjust items of income, deductions and capital, and disregard assets in computing any allocation percentage, provided any income directly traceable thereto is also excluded from entire net income, so as to equitably determine the tax.

(b) Explanation of "property factor". The percentage of the taxpayer's real and tangible personal property within the Village is determined by dividing the net book value (during the period covered by the report) of such property within Middleport without deduction of any encumbrances, by the average net book value similarly computed, of all such property within and without Middleport. Only property owned by the taxpayer is considered in determining such percentage.

(c) Explanation of "business receipts factor". Receipts from the following are also allocable to Middleport.

- (1) Work done or performed or services rendered in Middleport.
- (2) Rentals from property situated in Middleport where the rental of such property, is a usual or normal part of the taxpayer's business activity.
- (3) All other business receipts earned in Middleport, for the purpose of determining business allocation percentage, no account shall be given to receipts, within or without Middleport, of income derived from intangibles (including stocks, bonds, royalties and the like), the income of which is taxable under the statutes of the State of Ohio.

All receipts of the period covered by the report (computed on the cash or accrual basis, in accordance with the method of accounting used in the computation, of the taxpayer's entire net income) must be taken into account.

(d) Compensation for work done and performed or services rendered.

- (1) Compensation and other receipts for work done or services performed within Middleport are allocable to Middleport and taxable under this chapter. All amounts so received, credited or charged by taxpayer in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of taxpayer, by sub-contractors, or by any other persons, it is immaterial where such amounts were payable or where they were received.
- (2) Commission or fees received by the taxpayer are allocated to Middleport if the services for which the commissions were paid were performed in Middleport, if the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a Middleport place of business of the taxpayer, the taxpayer's services will be deemed to have been performed in Middleport.

Where a lump sum is received by the taxpayer in payment of services within and without Middleport, the amount attributable to services within Middleport, is to be determined on the basis of such services within and without Middleport.

- (3) Other business receipts. Receipts from sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to Middleport if the real property was situated in Middleport. Receipts from sales of intangibles included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to Middleport if the sales were made in Middleport or through a regular place of business of the taxpayer in Middleport.

(e) Payroll factor. The percentage of the taxpayer's payroll allocable to Middleport is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees during such period.

Wages, salaries and other compensation are computed on the cash or accrual basis in accordance with the method of accounting used in the computation of the entire net income of the taxpayer.

Employees within Middleport include all employees regularly connected with or working out of a place of business maintained by the taxpayer in Middleport, irrespective of where the services of such employee were performed. However, if the taxpayer establishes to the satisfaction of the Tax Administrator that because of the fact that a substantial part of payroll was paid to employees attached to a Middleport place of business who performed a substantial part of their services outside Middleport, the computation of the payroll factor according to the general rule stated above would not produce an equitable result, then the Administrator may, in his discretion, permit the payroll factor to be computed on the basis of the amount of compensation paid for services rendered within and without the Village. On the other hand, wherever, it appears that because of substantial part of the taxpayer's payroll was paid to employees attached to places of business outside Middleport who performed a substantial part of their services within Middleport, the computation of the payroll factor according to the general rule would not properly reflect the amount of the taxpayer's business done within Middleport by its employees, the Village's Tax Administrator may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the Village. In any such case, where an employee performed services both within and without Middleport, the amount treated as compensation for services performed within Middleport shall be deemed to be:

- (1) In the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for business attributable to his efforts within Middleport;
- (2) In the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within Middleport bears to the value of all his services; and
- (3) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Middleport bears to the total working time.

(f) Adjustment of business allocation percentage formula. Generally, the business allocation percentage formula will result in a fair apportionment of the taxpayer's net profits within and without Middleport. However, due to the peculiar circumstances of certain businesses, the formula may work a hardship in some cases, or result in a tax evasion in others, thus not to do justice to the taxpayer or the Village. Accordingly in such cases, the Village's Tax Administrator may substitute factors calculated to bring about a fair and proper allocation in any case where the taxpayer has adopted the optional use of the business allocation percentage formula.
(Ord. 1195-88. Passed 4-11-88.)

183.09 ON WHAT EARNINGS OR NET PROFITS TAX FIRST LEVIED.

(a) The tax referred to in Sections 183.03, and 183.04 shall first be levied, collected, and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensation earned on and after July 1, 1988.

(b) The tax referred to in Sections 183.05, 183.06 and 183.07 with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting systems of taxpayer as approved by the US. Collector of Internal Revenue) from and after July 1, 1988.

(c) But see Section 183.10 for fiscal year returns.
(Ord. 1195-88. Passed 4-11-88.)

183.10 FISCAL YEARS.

(a) Where the fiscal year of a trade, business, profession, enterprise, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof, as was earned on and after July 1, 1988.

(b) A fiscal year will be recognized only if it has been or may be recognized as such by the Director of Internal Revenue for the purpose of Federal income tax.
(Ord. 1195-88. Passed 4-11-88.)

183.11 NET BUSINESS PROFITS.

In amplification of the definitions contained in Section 183.01(g) of these regulations but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished.

- (a) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal income must in each instance be used.
- (b) Where the books and records are kept on an "accrual basis," "long-term contract basis", or "installment basis" and/or the accrual basis, long-term contract basis or installment basis is used in the filing of Federal income tax returns, such basis must be used for the purpose of the tax.

- (c) If the return is made on a "cash basis" gross profit shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses in action and services except as hereinafter provided.
- (d) If the return is made on an "accrual basis" gross profit shall include:
 - (1) Commissions, fees and interest earned; plus
 - (2) The gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses in action and services, except as hereinafter provided.
- (e) From gross profit, there shall be subtracted allowable expenses to arrive at the net profits subject to tax.
- (f) All ordinary and necessary expenses of doing business including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for "salary" or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise).
- (g) If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty not compensated for by insurance or otherwise, of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the Federal income tax. Provided, however, that loss on the sale, exchange or other disposition of the depreciable property and real estate used in business, shall not be allowed as a deductible expense.
- (h) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or if the reserve method is used, a reasonable addition to the reserve may be claimed, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal income tax.
- (i) Only taxes directly connected with the taxpayer's business may be claimed as a deduction if for any reason the income from property is not subject to tax, then the tax on such property is not deductible. In any event, the following taxes are not deductible from income.
 - (1) The tax under this chapter.
 - (2) Any Federal taxes based upon income.
 - (3) Gifts, estate or inheritance taxes, and
 - (4) Taxes for local benefits or improvements to property which tend to appreciate the value thereof.
- (j) Capital gains and losses, including gains or losses from the sale, exchange or other disposition of depreciable business property, and real property used in the taxpayer's trade or business, shall not be taken into consideration in arriving at "net profits earned".
- (k) If the taxpayer is a nonresident, only the amount of net profits applicable to the activities of the business in Middleport shall be subjected to tax. If the nonresident taxpayer's records do not disclose the actual net profits from the Middleport branch, office, store or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct in view of all the known circumstances, the Tax Administrator shall make a re-allocation based upon gross receipts or any other basis which shall, under the circumstances of the case, more accurately reflect the net profits.

- (l) In general, all business expense recognized and to the extent allowed as such for the purpose of determining Federal income tax will be recognized and allowed for determining Middleport income tax under the provisions of this chapter. However, all expenses connected with the acquisition of carrying of securities, the income from which is not recognized as taxable under this chapter, may not be deducted in determining taxable net profits hereunder.
- (m) In general, unearned income is not to be included in computing the tax levied hereunder. Gain or loss from the sale, exchange or other disposition of capital assets, including depreciable property and real estate used in business, shall not be included in determining net profits. Income from intangibles, by way of dividends, interest and the like, should not be included in property from which such income is derived is subject to taxation under the intangible personal property tax laws of the State, or is specifically exempted from taxation under those laws.
- (n) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by the taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. Following are the circumstances under which, in any instance, the rental of any real property shall or shall not be deemed to be in a "business activity".
 - (1) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax, provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds one hundred dollars (\$100.00) per month, provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farms, whether or not the gross income exceeds one hundred dollars (\$100.00) per month, and provided, further, that the person who operates a rooming house shall be considered in business whether or not the gross income exceeds one hundred dollars (\$100.00) per month.
 - (2) In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
 - (3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
 - (4) Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property and any and all other types of real estate.
 - (5) In determining the taxable net income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Department of Internal Revenue for Federal income tax purposes.

- (6) Residents of Middleport are subject to taxation upon the net income from rentals (to the extent above specified) regardless of the location of the real property owned.
Nonresidents of Middleport are subject to such taxation only if the real property is situated within the Village. Nonresidents, in determining whether gross rentals exceed one hundred dollars (\$100.00) shall take into consideration only real estate situated within Middleport.
- (7) Income from royalties or copyrights is not to be included.
(Ord. 1195-88. Passed 4-11-88.)

183.12 RECONCILIATION WITH FEDERAL RETURN.

If, as a result of a change made in business income by the Federal Bureau of Internal Revenue, or by a judicial decision, an additional amount will result as owing to the Village, a report of such change shall be filed by the taxpayer within three months after receipt of the final notice of such change from the Federal authorities or after final decision of a court adjudicating any such Federal income tax liability.
(Ord. 1195-88. Passed 4-11-88.)

183.13 RETURN AND PAYMENT OF TAX.

(a) On or before April 30, 1989, every taxpayer engaged in any business, the net profits of which are subject in whole or in part to the tax imposed by this chapter, shall make and file with the Village Tax Administrator, a final return on a form furnished by or obtainable from the Tax Administrator. Thereafter, each such taxpayer shall, on or before April 30 of each subsequent year, make and file a final return with the Tax Administrator. Like returns shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by the chapter. However, where an employee's entire earnings for the year are paid by an employer and the one percent (1%) tax thereon has, in each instance, been withheld and deducted by the employer from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Tax Administrator, and where such employee has no taxable income other than such earnings, it shall not be necessary for such employee to file a return for any taxable year in which such conditions have prevailed.

Any person who received both compensation for services performed for an employer in whatsoever form and in addition receives income from any business activity or occupation not subject to withholding under the chapter must file a declaration and a final return.

(b) In all returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation received and/or net profits earned (all as hereinbefore defined) by and during the preceding year and subject to such tax, together with such pertinent information as the Tax Administrator may require.

(c) If the return is made for a fiscal year or for any period other than a calendar year, the return shall be made within four months from the end of such fiscal year or other period.

(d) The return shall also show the amount of the tax imposed by the chapter on such earnings or net profits or both.

(e) The taxpayer making the return shall at the time of filing thereof, pay to the Village the amount of tax shown to be due and unpaid by the return. If, pursuant to the provisions of Section 183.19 the taxpayer shall show the amount of overpayment and may in the amount thereof be credited against the amount which will be required to be paid by the taxpayer on the next succeeding installment of tax which may be due.

For payments in installments, see Section 183.19.

(f) Where any portion of the tax otherwise due shall have been deducted at the source and shall have been paid to the Village by the person making the deduction, a credit equal to the amount so paid 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 the filing of the return.

(g) Upon written request of the taxpayer, the Village Tax Administrator may extend the time for filing the annual return for a period of not more than six months or not more than thirty days beyond any extension requested of and granted by the Bureau of Internal Revenue for filing of the Federal income tax return. (Ord. 1195-88. Passed 4-11-88.)

183.14 COLLECTION AT SOURCE.

(a) It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a salary, wage, commission or other compensation basis, to deduct from compensation paid to any employee subject to this chapter, the tax of one percent (1%) of such salary, wage, bonus, incentive payment, commission or other Compensation due by the employer to the employee. The tax shall be deducted by the employer from:

- (1) All compensation paid to employees who are nonresidents of the Village for services rendered, work performed or other activities engaged in to earn such compensation within the Village, and
- (2) From the gross amount of all salaries, wages, bonuses, incentive payments, commissions or other forms of compensation paid to employees who are residents of the Village, regardless of the place where the services are rendered.

(b) All employers who or which maintain an office in Middleport are required to make the collections and deductions specified in this section, regardless of the fact that the services on account of which any particular deduction is required as to residents of the Village were performed at the place of business of any such employer situated outside the Village.

(c) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.

(d) Commissions and fees paid to professional men, brokers and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must, in all instances, file returns and pay the tax pursuant to the provisions of Sections 183.03 or 181.03. (See Sections 183.05 and 183.06).

(e) In the case of employees who are nonresidents of Middleport the amount to be deducted is one percent (1%) of the compensation paid with respect to personal services rendered in Middleport.

Where a nonresident receives compensation for personal services rendered or performed partly within and partly outside Middleport, the withholding employer shall deduct, withhold and remit that portion of the compensation which is earned within Middleport in accordance with the following rules of apportionment.

- (1) If the nonresident is a salesman, agent or other employee whose compensation on the basis of commission depends directly on the volume of business transacted by him, the deducting and withholding shall attach to the portion of the entire compensation which the volume of business transacted by the employee within the Village bears to the volume of business transacted by him within and outside the Village.
- (2) The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the Village bears to the total number of working days employed within and outside the Village.
- (3) If it is impossible to apportion the earnings as provided above, because of the peculiar nature of the service of the employee, or the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.
- (4) The occasional entry into the Village of a nonresident employee who performs the duties for which he is employed entirely outside the Village, but enters the Village for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the Village, shall not be deemed to take such employees out of the class of those rendering their services entirely outside the Village.

(f) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by way of drawing account or otherwise - but see subsection (g) hereof) where such advances are in excess of commissions earned.

(g) An employer required to withhold the tax in compensation paid to an employee shall in determining the amount on which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expenses necessary and actually incurred by the employee in the actual performance of his services. Provided, that such expenses must be of the kind and in the amount recognized and allowed as deductible expenses for Federal income tax purposes. (Ord. 1195-88. Passed 4-11-88.)

183.15 RETURNS OF TAX WITHHELD AND PAYMENT.

(a) The deduction from salaries, wages, and other compensation required to be made by employers is to begin with compensation earned on and after July 1, 1988. The first return and payment required to be made on account of such deductions shall be made, filed and paid to the Village Tax Administrator by August 31, 1988.

(b) Each employer within the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly or more often than monthly and at the time of the payment of such salary, wage, commission or other compensation, the tax of one percent (1%) of salaries, wages, commissions or other compensation due by the employer to the employee.

(c) Every employer required to deduct and withhold any amount under this section shall file a return thereof and shall pay that amount as required herein as follows: In monthly payments to be made not later than thirty days following the close of the calendar month during which the amount was withheld.

(d) Such return shall be on a form prescribed by and obtained from the Village Tax Administrator and shall be subject to the rules and regulations prescribed therefor by the Village Tax Administrator. Such employer, in collecting the tax, shall be deemed to hold same until payment is made by such employer to the Village as such for the benefit of the Village and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

(e) For adjustment of errors in returns of tax withheld by employers, see Section 183.23. (Ord. 1195-88. Passed 4-11-88.)

183.16 LIMITATION ON CREDIT FOR TAX PAID AT SOURCE.

The failure of any employer, residing either within or outside the Village to collect the tax and to make any return prescribed herein, shall not relieve the employee from the payment of such tax in compliance with these regulations respecting the making of returns and the payment of taxes. (Ord. 1195-88. Passed 4-11-88.)

183.17 STATUS AND LIABILITY OF EMPLOYERS.

(a) Every employer is deemed to be a trustee of the Village in collecting and holding the tax required to be withheld, and the funds so collected by such withholding are deemed to be trust funds.

(b) Every such employer required to deduct and withhold the tax at the source is liable directly to the Village for the payment of such tax, whether actually collected by such employer or not. (Ord. 1195-88. Passed 4-11-88.)

183.18 DECLARATIONS.

(a) An employee whose entire wages, salaries and other compensation for any taxable year will be subjected to the withholding provisions under Section 183.15 through 183.17 whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation, or other income which is subject to tax under this chapter, need not file a declaration as provided in this section.

(b) All other taxpayers (as defined in this chapter) subject to the taxes imposed in Section 181.03, and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in the preceding paragraph, shall file with the Village Tax Administrator a declaration of his estimated tax as follows:

- (1) On or before August 31, 1988, every such taxpayer shall file a declaration of his estimated tax for the taxable period beginning July 1, 1988, and ending December 31, 1988.
- (2) A similar declaration shall be filed by each such taxpayer on or before the thirtieth day of April of each subsequent year during the life of the chapter, and each such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.
- (3) Taxpayers who or which are permitted pursuant to the provisions of Section 183.10 to return and pay their tax upon fiscal year basis shall file their first declaration within four months after the beginning of the first fiscal year beginning after January 1, 1988, and the subsequent declaration for each year thereafter on or before the thirtieth day of the fourth month following the beginning of each such fiscal year.
- (4) The estimated tax may be paid in full with the declaration or in equal installments on or before April 30, June 30, September 30 and December 31, the first filing being as of September 30, 1988. Those taxpayers on a fiscal year basis shall make quarterly payments on or before the thirtieth day of the fourth month and on or before the last day of the sixth, ninth and twelfth month following the beginning of such fiscal year. The first installment, equal to at least one-fourth, must accompany the declaration.
- (5) The declarations so required shall be filed upon a form furnished by or obtainable from the Village Tax Administrator. Any taxpayer who has filed an estimate for Federal income tax purposes may, in making the declaration required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the declaration of his estimate for the Federal income tax. However, in addition to such statement, any such taxpayer may, in such declaration modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under the chapter.
- (6) Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with Section 183.19. (Ord. 1195-88. Passed 4-11-88.)

183.19 PAYMENT OF TAX INSTALLMENTS.

(a) At the time of filing each declaration (required by Section 183.18) each taxpayer shall pay to the Village one-fourth of the amount of his estimated annual tax. Thereafter, on or before the thirtieth day of April, June, September and December of each year during the life of the chapter, such taxpayer shall pay at least a similar amount. However, if any such taxpayer shall, on or before any such payment date, file an amended declaration showing an increase or decrease of an estimated tax, the installments then and thereafter due shall be increased or diminished (as the case may be) in such manner that the balance of the estimated tax shall be fully paid on or before December 31, of the taxable year involved through the payment of quarterly installments in equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.

(b) Taxpayers who or which are permitted to make returns and pay their tax on a fiscal year basis (see Section 183.10) may make the quarterly payments on their declaration of estimated tax pursuant to Section 183.18(b)(3) and (4).

(c) For final returns and final adjustment of tax due, see Section 183.13. (Ord. 1195-88. Passed 4-11-88.)

183.20 RECIPROCITY.

Every individual taxpayer who resides in the Village but receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Village, if it be made to appear that he has paid a municipal income tax on such net profits, salary, wages, commission or other compensation to another municipality, shall be allowed a credit on the tax imposed by the chapter of the amount so paid by him or in his behalf to the other municipality. The credit shall not exceed the tax assessed by this chapter on such net profits, salary, wages, commission or compensation earned in such other municipality or municipalities where such City income tax is paid. (Ord. 1195-88. Passed 4-11-88.)

183.21 INQUISITORIAL POWERS OF TAX ADMINISTRATOR.

(a) The Tax Administrator personally, or his agents are authorized and empowered to examine the books, papers and records of any employer or supposed employer, or of any taxpayer, or supposed taxpayer, in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax imposed by this chapter.

(b) Every employer or supposed employer, and every taxpayer or supposed taxpayer is required to furnish to the Tax Administrator or his duly authorized agents or employees, the means, facilities and opportunity for such examinations, investigations and audits as are authorized in and by this chapter.

(c) The Tax Administrator or his duly authorized agent or employee is further authorized and empowered to examine under oath any person concerning any income which was or should have been returned for taxation, and to this end, the Clerk-Treasurer has the right and power to compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whom he believes to have knowledge of such income.

(d) Refusal of any examination by any employer or person subject to the tax, or presumed to be such employer or person so subject, constitutes a misdemeanor punishable by fine or imprisonment, or both.
(Ord. 1195-88. Passed 4-11-88.)

183.22 RECORDS TO BE KEPT BY EMPLOYERS AND TAXPAYERS.

Employers and others subject to the tax under this chapter are required to keep such records as will enable the filing of true and accurate returns, whether for taxes withheld at source or if taxes payable upon earnings or net profits, or both, and such records are to be preserved to enable the Village Clerk or any agent or employee of the Tax Administrator, to verify the correctness of the returns filed.
(Ord. 1195-88. Passed 4-11-88.)

183.23 COLLECTION OF DEFICIENCIES; ALLOWANCE OF CREDIT FOR OVERPAYMENT.

(a) If, as a result of investigation conducted by the Tax Administrator a return is found to be incorrect, the Tax Administrator is authorized to assess and collect any underpayment of tax withheld at source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits, or both, if no return has been filed and a tax is found to be owing. The tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.

(b) Should it be disclosed, either as a result of an investigation by the Tax Administrator or through the medium of the filing of a claim or petition for refund or credit that an overpayment has been made, the Clerk-Treasurer will refund such overpayment.

(c) The employer will, in every instance, be required to pay the full tax which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld, the excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be elected to maintain complete records of such adjustments with the employees, any such adjustment made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached.

(d) In those cases in which too much has been withheld by an employer from an employee and remitted to the Village and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the Village. (Ord. 1195-88. Passed 4-11-88.)

183.24 PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

Tax returns, and all audits connected therewith are confidential. Any information gained by the Clerk-Treasurer, by his agents or employees, or by any other official or agent of the Village as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be held confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law. Violation of this provision constitutes a misdemeanor, punishable by fine not exceeding five hundred dollars (\$500.00) or imprisonment for not more than six months, or both. Every such breach of confidence constitutes a separate offense. (Ord. 1195-88. Passed 4-11-88.)

183.25 INTEREST AND PENALTIES.

(a) All taxes imposed and all moneys 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-half percent (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-half percent (1/2%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof.

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

(d) 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 or interest, the Board may, nevertheless, abate penalty or interest, or both. (Ord. 1195-88. Passed 4-11-88.)

183.26 COLLECTION OF UNPAID TAXES.

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

(b) Taxes erroneously paid shall not be refunded unless a claim for refund made within three years from the date which such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later.

(c) Amounts of less than one dollar (\$1.00) shall not be collected or refunded. (Ord. 1195-88. Passed 4-11-88.)

183.27 VIOLATIONS; PENALTIES.

(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) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator, or
- (4) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter, or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records or papers relating to the income or net profits of a taxpayer, or
- (6) Fail to appear before the Administrator and to produce his books, records and papers 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) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid, and the Village tax withheld, or to knowingly give the Administrator false information, or
- (10) 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 if any change in residence address and date thereof, or

(11) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter, shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

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

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.
(Ord. 1195-88. Passed 4-11-88.)

183.28 BOARD OF REVIEW.

(a) A Board of Review, consisting of the President of Council, the Mayor, the Clerk-Treasurer, and two additional members appointed by the Mayor, 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 the 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, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.
(Ord. 1195-88. Passed 4-11-88.)

183.29 APPLICABILITY.

This chapter is inapplicable to any person or corporation upon whom or which it is beyond the legal power of Council to impose the tax, it is likewise inapplicable as to any property, income or profits (or part thereof) as to which it is beyond the legal power of Council to levy the tax. (Ord. 1195-88. Passed 4-11-88.)

183.30 CONSTRUCTION; SEPARABILITY OF PROVISIONS.

This chapter shall not apply to any person, firm, corporation or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. 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 sentence, clause, 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 therein.
(Ord. 1195-88. Passed 4-11-88.)

183.31 CONSOLIDATED RETURNS.

(a) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Administrator finds net profits are not properly allocated to the Village by reason of transaction 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 allocations as he deems appropriate to produce a fair and proper allocation of net profits to the Village.
(Ord. 1195-88. Passed 4-11-88.)

183.32 SPLIT PAYROLLS.

(a) In the case of hourly employees, where a payroll continues past July 1, 1988, and such payroll does not end until a period in July, 1988, the payroll shall be considered a split payroll, and as such, this payroll will not be subject to withholding tax under this chapter. This is to say only the first full pay for hourly employees earned after July 1, 1988, and all payrolls thereafter will become subject to withholding under this chapter.

(b) All salaried employees paid on a calendar month will be subject to withholding under this chapter as of July 1, 1988.
(Ord. 1195-88. Passed 4-11-88.)

183.33 WITHHOLDING STATEMENTS.

The income Tax Department will require the filing of employee earnings report, resembling Federal form W-2 as of December 31, 1988, or at any subsequent date, a reconciliation of total payrolls, reconciled with payroll amounts reported subject to Middleport, Ohio, Village Income Tax.
(Ord. 1195-88. Passed 4-11-88.)

183.34 VACATION PAY.

Vacation pay paid in 1988 and in all subsequent years, will be subject to withholding deductions under this chapter. (Ord. 1195-88. Passed 4-11-88.)

183.35 BUSINESS LOSSSET-OFF.

(a) A loss sustained by an individual who is engaged in a business, in addition to being a partner or member of another association or business, may not be set off against the profits of the other association or business, nor against the salary, wage, commission or other personal service compensation, (if any), which he may earn in another capacity. Nor may the business loss of an association or business be set off against the profits of another business engaged in by a member or partner of such association or business, or against the salary, wage, commission or other personal service compensation which a member or partner may earn in another capacity.

(b) In the case of an individual who runs two or more businesses as individual proprietorship, loss from one such business may be set off against the net profits of the other, (but not against salaries, wages or other personal service compensation). The one percent (1%) tax shall be levied on the final net business income of the individual proprietor. (Ord. 1195-88. Passed 4-11-88.)