

ORDINANCE NO. 2015-O-18

AN ORDINANCE REPEALING ORDINANCE NUMBER 2014-O-15 AND AMENDING SECTION 181.11 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WAKEMAN, OHIO RELATIVE TO TAXPAYER RELIEF FROM THE MUNICIPAL INCOME TAX.

WHEREAS, Council has previously established a municipal income tax and the imposition thereof on all salaries, wages, commissions and other compensation of the residents of the Village and nonresidents who earn salaries, wages, commissions and other compensation within the Village in *Chapter 181.01 et seq. of the Codified Ordinances of the Village of Wakeman, Ohio*; and

WHEREAS, the previous version of the aforementioned ordinance provides for a fifty percent (50%) credit for taxpayers who live in Wakeman and work in other municipal corporations and pay a municipal income tax in the municipal corporation where they work; and

WHEREAS, in Ordinance Number 2014-O-15, the Council attempted to eliminate the fifty percent credit, but the Regional Income Tax Agency has informed Council that the language in Ordinance Number 2014-O-15 was inadequate to accomplish that goal due to the fact that there was no effective date set forth in the amendment. Therefore, the Regional Income Tax Agency was unable to comply with the express terms of the amendment as set forth in Ordinance Number 2014-O-15. Thus, Council has determined that it is now necessary to repeal and replace Ordinance Number 2014-O-15 with the within Ordinance; and

WHEREAS, the Council has been informed by the Fiscal Officer that its revenue stream has been diminished through the diminution in real property values which has resulted in a lower amount of real property taxes being received and the diminution in the receipt of local government funds from the State of Ohio. Furthermore, local governments, such as the Village of Wakeman, are being required by the State of Ohio and the Federal Government to do more through unfunded mandates; and

WHEREAS, Council has now determined that the aforementioned income tax credit should be repealed by amending *section 181.11 of the Codified Ordinances of the Village of Wakeman, Ohio* in order to attempt to replace all or a part of its diminished revenue stream; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAKEMAN, STATE OF OHIO:

Section 1. That from and after the effective date of this Ordinance, *section 181.11 of the Codified Ordinances of the Village of Wakeman, Ohio*, shall be amended and shall read as follows:

181.11 TAXPAYER RELIEF.

(a) There shall be no credit (0%) of the total tax liability for income taxes paid to other municipalities effective January 1, 2016.

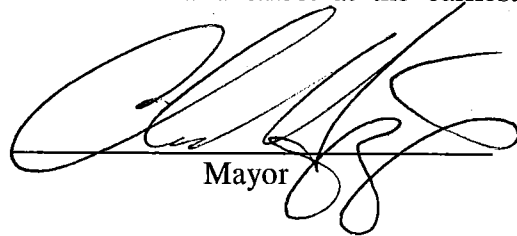
(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due.

(Ord. 1996-0-15. Passed 5-13-96; Amd. Ord. 2015-O-____. Passed _____, 2015)

Section 2 The Council has determined that it is necessary to repeal and replace Ordinance Number 2014-O-15 with the within Ordinance.


Section 3 That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council; and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including *section 121.22 of the Revised Code*.

Section 4 That this Ordinance shall be in full force and effect at the earliest date permitted by law.



Mayor

Attest:



Village Fiscal Officer

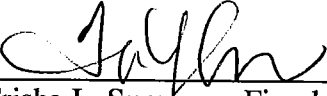
1st Reading: June 8, 2015

2nd Reading:, July 13, 2015 (as amended)

3rd Reading: August 10, 2015 (as amended)

Adopted: August 10, 2015 (as amended)

I, Trisha L. Summers, the duly appointed Fiscal Officer of the Village of Wakeman, do hereby certify that the forgoing Ordinance is a true and accurate copy of Ordinance Number 2015-O-18, which was adopted at a meeting of the Council of the Village of Wakeman, Ohio, on August 10, 2015.



Trisha L. Summers, Fiscal Officer
Village of Wakeman, Ohio
Date: August 11, 2015

ORDINANCE NO. 2014-O- 20

AN ORDINANCE REPEALING ORDINANCE NUMBER 2014-O-17 AND AMENDING SECTION 181.07 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WAKEMAN, OHIO RELATIVE TO PAYMENT OF THE MUNICIPAL INCOME TAX FOR PURPOSES OF GENERAL MUNICIPAL OPERATION.

WHEREAS, the Council of the Village of Wakeman has previously enacted an income tax which was recently renewed by the electors of the Village of Wakeman; and

WHEREAS, due to reductions in the receipts of tax moneys from the State of Ohio and the elimination of the Estate Tax, the Council has determined that it is necessary to amend the income tax ordinance relative to the credit for residents who work and pay income taxes in other communities; and

WHEREAS, in Ordinance Number 2014-O-17, the Council attempted to create a twenty dollar (\$20.00) tax credit, but the Regional Income Tax Agency has informed Council that the language in Ordinance Number 2014-O-17 was inadequate to accomplish that goal. Thus, Council has determined that it is now necessary to repeal and replace Ordinance Number 2014-O-17 with the within Ordinance; and

WHEREAS, Council has now determined that the aforementioned income tax credit should be re-established by amending *section 181.07 of the Codified Ordinances of the Village of Wakeman, Ohio*; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAKEMAN, STATE OF OHIO:

Section 1. That from and after the effective date of this Ordinance, *section 181.07 of the Codified Ordinances of the Village of Wakeman, Ohio*, shall read as follows:

181.07 PAYMENT OF TAX

(a) Payment of Tax on Filing of Returns.

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

A. Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this chapter; or

B. Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this chapter; or

C. **WHERE INCOME TAX HAS BEEN PAID ON THE SAME INCOME TO ANOTHER MUNICIPALITY, CREDIT FOR THE AMOUNT SO DEDUCTED OR PAID, OR CREDIT TO THE EXTENT PROVIDED FOR IN THIS CHAPTER, 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.

~~Where income tax has been paid on the same income to another municipality, A \$20.00 credit for the amount so deducted or paid, or A \$20.00 credit to the extent provided for in this chapter, 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 the Village of Wakeman 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 any part thereof) shall be refunded, provided that no additional taxes or refunds of than one dollar (\$1.00) shall be collected or refunded.

(b) Collection at Source.

(1) In accordance with rules and regulations prescribed by the Administrator, each employer within doing business within the Village of Wakeman shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of **ONE PERCENT (1%)** per annum of the gross salaries, wages, commissions or other compensation due by the said employer to said employees and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

(2) Said returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulation prescribed therefore 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.

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

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

(c) Declarations Of Income Not Collected At Source. EFFECTIVE JANUARY 1, 2015, any person whose income tax is not fully withheld in the Village of Wakeman ~~or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in this chapter hereof~~ OR WHOSE ANNUAL INCOME TAX LIABILITY, AFTER APPLYING WITHHOLDING CREDITS, IS MORE THAN TWENTY DOLLARS (\$20.00) shall file a declaration setting forth estimated taxable

income, including distributive shares of net profits or unincorporated business entities estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon less:

- (1) Tax withheld within the Village of Wakeman.
- (2) The tax credit allowed in the appropriate section of this chapter.

d) Filing of Declaration.

(1) The declaration required by this chapter shall be filed on or before April 30th of each year during the effective period set forth in this chapter or within four months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

e) Form of Declaration. The declaration required by this chapter shall be filed upon a form furnished by or obtainable from the Administrator. As provided for in this chapter, credit shall be taken for the income tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of this chapter.

(f) Payment to Accompany Declaration. Such declaration of estimated tax to be paid to the Village of Wakeman 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 seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment date or dates.

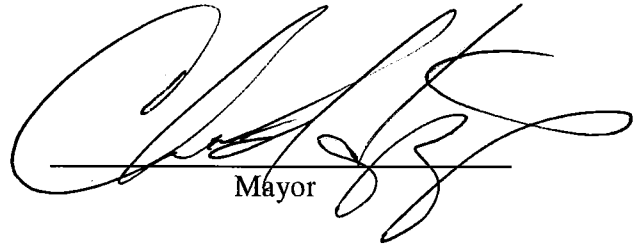
(g) Annual Return. On or before the last day of the fourth month of the year following that for which declaration or amended declaration was filed, an annual return shall be filed and any balances which may be due the Village of Wakeman shall be paid therewith in accordance with the provisions of this chapter. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or any amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(h) Extensions. The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this chapter for a period not to exceed six months beyond the original required date.

SECTION 2 The Council has determined that it is necessary to repeal and replace Ordinance Number 2014-O-17 with the within Ordinance.

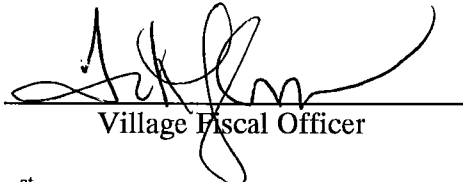
SECTION 3. That this Council hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of its committees, if any, which resulted in formal action, were taken in meetings open to the public in full compliance with applicable legal requirements, including *section 121.22 of the Ohio Revised Code*.

SECTION 4. That this Ordinance shall be in full force and effect at the earliest date permitted by law.



Mayor

Attest:



Village Fiscal Officer

1st Reading: October 13, 2014

2nd Reading: November 10, 2014

3rd Reading: December 8, 2014

Adopted: December 8, 2014

I, Trisha L. Summers, the duly appointed Fiscal Officer of the Village of Wakeman, do hereby certify that the forgoing Ordinance is a true and accurate copy of Ordinance Number 2014-O-20, which was adopted at a meeting of the Council of the Village of Wakeman, Ohio, on December 8, 2014 .



Trisha L. Summers, Fiscal Officer

Village of Wakeman, Ohio

Date: December 8, 2014

CHAPTER 181

Income Tax

- 181.01 Definitions.**
- 181.02 Imposition of income tax.**
- 181.03 Effective period.**
- 181.04 Determination of allocation of tax.**
- 181.05 Exemptions.**
- 181.06 Returns.**
- 181.07 Payment of tax.**
- 181.08 Interest and penalties.**
- 181.09 Violations.**
- 181.10 Collection of unpaid taxes and refunds of overpayments.**
- 181.11 Taxpayer relief.**
- 181.12 Administrator's powers and duties.**
- 181.13 Board of Review.**
- 181.14 Personal liability of corporate officers.**

CROSS REFERENCES

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

181.01 DEFINITIONS.

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

- (a) "Administrator" means the individual designated by the Mayor to administer and enforce the provisions of the municipal income tax along with the Administrator of the Regional Income Tax Agency.
- (b) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (c) "Board of Review" means the Board created by and constituted as provided in this chapter.
- (d) "Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit; whether by an individual, partnership, association, corporation or any other entity; excluding, however, all nonprofit corporations which are exempt from the payment of federal income tax.
- (e) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency.
- (f) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) "Employer" means an individual, partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary,

- wage, commission or other basis of compensation.
- (h) "Fiscal year" means an account 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" means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for federal income tax purposes without deduction of taxes imposed by this chapter; federal, state, and other taxes based on income; and in the case of an association, without deduction of salaries paid to partners and other owners.
 - (k) "Nonresident" means an individual domiciled outside the municipality.
 - (l) "Nonresident Unincorporated Business Entity" means an unincorporated business entity not having an office or place of business within the 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, means the partners or members thereof and as applied to corporations, the officers thereof.
 - (n) "Place of business" means any bonafide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
 - (o) "Resident" means an individual domiciled in the municipality.
 - (p) "Resident Unincorporated Business Entity" means an unincorporated business entity having an office or place of business within the municipality.
 - (q) "Taxable income" means wage, salaries and other compensation paid by an employer or employers 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 the chapter.
 - (r) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and in the case of a return for a fractional part of a year, the period of 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. 1996-0-15. Passed 5-13-96.)

181.02 IMPOSITION OF INCOME TAX. [Please click here to view 2004 Amendment](#)

An annual tax for the purposes specified in this chapter shall be imposed on and after January 1, 2003 until February 29, 2004 at a rate of one percent (1%) per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after January 1, 2003, by residents of the Village of Wakeman;
- (b) On all salaries, wages, commissions and other compensation earned on and after January 1, 2003, by nonresidents of the Village of Wakeman for work done or services performed or rendered within the Village of Wakeman;
- (c) (1) On the portion attributable to the Village of Wakeman on the net profits earned on and after January 1, 2003, of all resident unincorporated business entities or professions or other activities,

derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Wakeman;

- (2) On the proportion of the distributive share of the net profits earned on and after January 1, 2003, of a resident, partner or owner of a resident unincorporated business entity not attributable to the Village of Wakeman and not levied against such unincorporated business entity by the Village of Wakeman;
- (d) (1) On the portion attributable to the Village of Wakeman of the net profits earned on or after January 1, 2003, of all nonresidents unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village of Wakeman, whether or not such unincorporated business entity has an office or place of business in the Village of Wakeman;
- (2) On the portion of the distributive share of the net profits earned on or after January 1, 2003, of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village of Wakeman and not levied against such unincorporated business entity by the Village of Wakeman;
- (e) On the portion attributable to the Village of Wakeman of the net profits earned on and after January 1, 2003, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Wakeman whether or not such corporations have an office or place of business in the Village of Wakeman. (Ord. 2003-0-33. Passed 10-13-03.)

181.03 EFFECTIVE PERIOD.

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after the dates set forth in Section 181.02 above. Council shall determine from time to time whether it is necessary to continue this income tax to promote the necessary funding for the Village. (Ord. 2003-0-32. Passed 10-13-03.)

181.04 DETERMINATION OF ALLOCATION OF TAX.

(a) Method of Determination. In the taxation of income which is subject to municipal income taxes, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the municipality 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 municipality, then only such portion shall be considered as having taxable situs in the municipality for the purposes of municipal income taxation. The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the municipality, in the absence of actual records thereof, shall be determined as follows:

Multiply the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight as follows:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the municipality 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" includes property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight.

- (2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business for services performed in the municipality to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the municipality 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 forgoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.

(b) Sales Made in Municipality. As used in subsection (a)(3) above, "sales made in the municipality" means:

- (1) All sales of tangible personal property which is delivered within the Village of Wakeman, regardless of where title passes if shipped or delivered from a stock of goods within the Village of Wakeman;
- (2) All sales of tangible personal property which is delivered within the Village of Wakeman, regardless of where title passes even though transported from a point outside the Village of Wakeman, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Wakeman, and the sales result from such solicitation or promotion;
- (3) All sales of tangible personal property which is shipped from a place within the Village of Wakeman, to purchasers outside the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(c) Total Allocation. Add together the percentages determined in accordance with subsections (1), (2), and (3) above or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving such total in order to obtain the business allocation percentage referred to above.

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

(d) Rentals. Rental income received by a taxpayer shall be included in the computation of net profits from business activities under Section 181.02(c), (d) and (e) , 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 a taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part. Where the gross monthly rental of any and all real properties, regardless of number and value, aggregate in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or

profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm whether or not the gross income exceeds said two hundred and fifty dollars (\$250.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred and fifty dollars (\$250.00) per month.

(e) Operating Loss Carry-Forward.

- (1) The portion of a net operating loss sustained in any taxable year subsequent to the effective date of this title as set forth in Section 181.02 above, allocable to the municipality may be applied against the portion of the profit of succeeding tax years allocable to the five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior years.
- (2) The portion of net operating loss sustained shall be allocated to the municipality in the same manner as provided herein for allocating net profits to the municipality.
- (3) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined.

(Ord. 2003-0-32. Passed 10-13-03.)

181.05 EXEMPTIONS.

The tax provided for herein shall not be levied on the following:

- (a) Pay or allowances of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
- (b) Non tax deferred pension plans, unemployment insurance benefits, disability benefits received from local, state or federal governments or charitable, religious or educational organizations.
- (c) Proceeds of insurance paid by reason of the death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived.
- (d) Receipts from seasonal or casual entertainment, amusements, sport events and health and welfare activities when any such are conducted by bonafide charitable, religious or educational organizations and associations.
- (e) Alimony received.
- (f) Personal earnings of any natural person under eighteen years of age.
- (g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.
- (h) Interest, dividends and other revenue from intangible property.
- (i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the State of Ohio from which the municipality is specifically prohibited from taxing, and income of decedent's estate during the period of administration (except such income from the operation of a business).
- (j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions

- to impose net income taxes on income derived from interstate commerce.
- (k) Salaries, wages, commission and other compensation and net profits, the taxation of which is prohibited by the Constitution for the State of Ohio or any act of the Ohio General Assembly limiting the power of the municipality to impose net income taxes. (Ord. 1996-0-15. Passed 5-13-96.)

181.06 RETURNS.

(a) When Return Required To Be Made. Each taxpayer shall, whether or not a tax be due thereon, make and file a return on or before April 30th of the year following the effective date of this chapter and on or before April 30th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

(b) Form and Contents of Return. 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 activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax;
- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, or other information as the Administrator may require.

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

(d) Consolidated Returns.

- (1) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.
- (2) In the case of a corporation that carried on transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in the case any laboratory or activity within the Village of Wakeman, 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 of Wakeman. If the Administrator finds that net profits are not properly allocated to the Village of Wakeman, 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 allocation as he deems appropriate to produce a fair and proper allocation of net profits to the municipality.

(e) Amended Returns.

- (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements, limitations or both contained in appropriate sections of the chapter. Such amended return shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's municipal tax liability, such taxpayer shall make and file an amended municipal return showing income subject to the municipal tax based on such final determination of federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment. (Ord. 1996-0-15. Passed 5-13-96.)

181.07 PAYMENT OF TAX.

(a) Payment of Tax on Filing of Returns.

- (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that:
 - A. Where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of this chapter; or
 - B. Where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of this chapter; or
 - C. Where income tax has been paid on the same income to another municipality, credit for the amount so deducted or paid, or credit to the extent provided for in this chapter, 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 the Village of Wakeman 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 any part thereof) shall be refunded, provided that no additional taxes or refunds of than one dollar (\$1.00) shall be collected or refunded.

(b) Collection at Source.

- (1) In accordance with rules and regulations prescribed by the Administrator, each employer within doing business within the Village of Wakeman shall deduct, at the time of the payment of such salary, wages, commission or other compensation, the tax of per annum of the gross salaries, wages, commissions or other compensation due by the said employer to said employees and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month; provided, however, that if the amount of the tax so deducted by any employer in any one month is less than one

hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which such month occurred.

- (2) Said returns shall be on a form or forms prescribed or acceptable to the Administrator and shall be subject to the rules and regulation prescribed therefore 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.
- (3) Such employer in collecting said tax shall be deemed to hold the same until payment is made by such employer to the Village of Wakeman as a trustee for the benefit of the Village of Wakeman and any such tax collected by such employer from his employees shall, until the same is paid to the Village of Wakeman, be deemed a trust fund in the hands of such employer.
- (4) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Village of Wakeman but such employee shall be subject to all of the requirements of this chapter.

(c) Declarations Of Income Not Collected At Source. Any person whose income tax is not fully withheld in the Village of Wakeman or in another municipality in which taxes are withheld at a rate the same as or higher than the rate provided in this chapter hereof shall file a declaration setting forth estimated taxable income, including distributive shares of net profits or unincorporated business entities estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon less:

- (1) Tax withheld within the Village of Wakeman.
- (2) The tax credit allowed in the appropriate section of this chapter.

(d) Filing of Declaration.

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

(e) Form of Declaration. The declaration required by this chapter shall be filed upon a form furnished by or obtainable from the Administrator. As provided for in this chapter, credit shall be taken for the income tax to be withheld from any portion of such income and credit shall be taken for tax to be paid or withheld and remitted to another taxing municipality, in accordance with the provisions of this chapter.

(f) Payment to Accompany Declaration. Such declaration of estimated tax to be paid to the Village of Wakeman 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 seventh and tenth months after the beginning of the taxable year, and on or before the last day of the first month of the succeeding year following the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment date or dates.

(g) Annual Return. On or before the last day of the fourth month of the year following that for which declaration or amended declaration was filed, an annual return shall be filed and any balances which may be due the Village of Wakeman shall be paid therewith in accordance with the provisions of this chapter. Provided, however, that any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time in lieu of filing such declaration or any amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(h) Extensions. The Administrator may extend the time of filing any return required, of making any payment or performing any other act required by this chapter for a period not to exceed six months beyond the original required date. (Ord. 1996-0-15. Passed 5-13-96.)

181.08 INTEREST AND PENALTIES.

(a) Interest on Unpaid Tax. All taxes imposed and all monies withheld or required to be withheld by employers and all installments or estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due, shall bear interest at the rate of six percent (6%) per annum.

(b) Penalties on Unpaid Tax. In addition to interest as provided in this chapter, penalties based on the unpaid tax or installments of estimated tax are hereby imposed as follows:

- (1) For failure to pay taxes or estimated taxes due, other than taxes withheld: ten percent (10%) per annum, but not less than five dollars (\$5.00).
- (2) For failure to remit taxes withheld from employees: ten percent (10%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) upon any unpaid amount and shall not be less than five dollars (\$5.00).

(c) Exceptions. A penalty shall not be assessed on any 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 against a taxpayer by the Administrator resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three months after a final determination of the federal tax liability.

(d) Abatement of Interest and Penalty. Either the Administrator hereunder or the Board of Review may abate penalty or interest, or both, for good cause shown. (Ord. 1996-0-15. Passed 5-13-96.)

181.09 VIOLATIONS.

- (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 pay the tax, penalties or interest imposed by this chapter; or
 - (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or

- (5) Refuse to permit the Administrator, or any duly authorized agent or employee to examine his books, records, papers and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to any employer false information as to his true name, correct social security number and resident address or fail to promptly notify an employer of any change in resident address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' resident addresses, total wages paid and municipal tax withheld or 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) Limitation on Prosecution. All prosecutions under this section must be commenced within five years from the time of the offense complained of, except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

(c) Failure to Procure Forms Not Excuse. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(Ord. 1996-0-15. Passed 5-13-96.)

181.10 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) Unpaid Taxes Recoverable as Other Debts. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of the like amount are recoverable. Except in the case of fraud, or omission of a 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 Statute of Limitations, the period within which an additional assessments may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability.

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

(c) Amounts of Less Than One Dollar. Amounts of less than one dollar

(\$1.00) shall not be collected. (Ord. 1996-0-15. Passed 5-13-96.)

181.11 TAXPAYER RELIEF.

(a) There shall be a credit of fifty percent (50%) of the total tax liability for income taxes paid to other municipalities.

(b) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due.

(Ord. 1996-0-15. Passed 5-13-96.)

181.12 ADMINISTRATOR'S POWERS AND DUTIES.

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

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

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

(d) Authority to Arrange Installment Payments. 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.

(e) Authority to Determine Amount of Tax Due. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the 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.

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

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

(h) Refusal to Produce Records. The refusal to produce books, papers, records, and federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this chapter or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this chapter punishable as provided in Section 181.09.

(i) Confidential Nature of Information. Any information gained as the result of any returns, investigations, hearings, or verifications required or authorized by this chapter shall be confidential except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this section shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense.

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

(k) Authority to Contact From Central Collection Facilities. The Village of Wakeman having already entered into an agreement for the establishment of a Regional Council of Governments pursuant to Ordinance 1996-0-26, which Council has organized a municipal tax collection agency known as "Regional Income Tax Agency" the Board of Trustees of said Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the Village of Wakeman and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of said agency through the Administrator of said agency. Provided, however, the Administrator of said agency shall have no authority to abate penalties or interest provided for in this chapter.
(Ord. 1996-0-15. Passed 5-13-96.)

181.13 BOARD OF REVIEW.

(a) Established. A Board of Review, consisting of the Solicitor and a member of Council to be elected by that body, and a member appointed the Mayor of the Village of Wakeman, is hereby created. The Board shall select, each year for a one year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of this chapter with reference to the confidential character of information with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

(b) Duty to Approve Regulations and to Hear Appeals. All rules and

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

(c) Right of Appeal. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority 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 the hearing, have decision, or any part thereof.

(Ord. 1996-0-15. Passed 5-13-96.)

181.14 PERSONAL LIABILITY OF CORPORATE OFFICERS.

The officer or employee of having control or supervision of or charged with the responsibility of filing any return or declaration required by this Chapter and making payment, or any officer of a corporation who is responsible for the execution of the corporation's fiscal responsibilities, shall be personally liable for failure to file any return or declaration or pay the tax or employer withholding due by the provisions of this Chapter. The dissolution, termination, or bankruptcy of a corporation does not discharge a responsible officer's or employee's liability for failure of the corporation to file returns or declarations or pay tax or employer withholding due.

(Ord. 2000-0-35. Passed 12-4-00.)

ORDINANCE NO. 2003-O- _____

AN ORDINANCE ADOPTING SECTION 181.02 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF WAKEMAN, OHIO RELATIVE TO IMPOSING A MUNICIPAL INCOME TAX FOR PURPOSES OF GENERAL MUNICIPAL OPERATION.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF WAKEMAN, STATE OF OHIO:

Section 1. That from and after the effective date of this Ordinance, *section 181.02 of the Codified Ordinances of the Village of Wakeman, Ohio*, shall read as follows:

181.02 IMPOSITION OF INCOME TAX.

An annual tax for the purposes specified in this chapter shall be imposed on and after May 1, 2004 until December 31, 2008 at a rate of one percent (1%) per annum upon the following:

- (a) On all salaries, wages, commissions and other compensation earned on and after May 1, 2004, by residents of the Village of Wakeman;
- (b) On all salaries, wages, commissions and other compensation earned on and after May 1, 2004, by nonresidents of the Village of Wakeman for work done or services performed or rendered within the Village of Wakeman;
- (c)
 - (1) On the portion attributable to the Village of Wakeman on the net profits earned on and after May 1, 2004, of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Wakeman;
 - (2) On the proportion of the distributive share of the net profits earned on and after May 1, 2004, of a resident, partner or owner of a resident unincorporated business entity not attributable to the Village of Wakeman and not levied against such unincorporated business entity by the Village of Wakeman;
- (d)
 - (1) On the portion attributable to the Village of Wakeman of the net profits earned on or after May 1, 2004, of all nonresidents unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the Village of Wakeman, whether or not such unincorporated business entity has an office or place of business in the Village of Wakeman;
 - (2) On the portion of the distributive share of the net profits earned on or after May 1, 2004, of a resident, partner or owner of a nonresident of an incorporated business entity not attributable to the Village of Wakeman and not levied against such unincorporated business entity by the Village of Wakeman;

- (e) On the portion attributable to the Village of Wakeman of the net profits earned on and after May 1, 2004 of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village of Wakeman whether or not such corporations have an office or place of business in the Village of Wakeman.