

**Ordinance No. 02-07-05-3**  
**Village of Owensville, Ohio**  
**Establishing Municipal Income Tax**

**Chapter 160**  
**Income Tax**

**160.01 PURPOSE; LEVY.**

The purpose of the income tax shall be to provide funds for the purpose of general municipal operations, parks and recreation and capital improvements. The income tax is hereby levied on income, salaries, wages, commissions and other compensation, and on net profits as hereinafter provided pursuant to Ohio Revised Code Chapter 718.

**160.02 DEFINITIONS.**

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

- (1) "Adjusted Federal Taxable Income" means a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship.
- (2) "Administrator" means the individual designated by this chapter, appointed to administer and enforce the provisions of the chapter.
- (3) "Association" means a partnership, limited partnership, limited liability company, or any other form of unincorporated enterprise.
- (4) "Board of Review" means the Board created by and constituted as provided in Section 160.20.
- (5) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property; real, personal or mixed.
- (6) "Corporation" means a corporation, including Chapter S Corporations as defined in the federal tax code, 26 U.S.C. 1361, or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign county or dependency.
- (7) "Domicile" means the permanent legal residence of a taxpayer. An individual may have more than one residence but not more than one domicile.
- (8) "Employee" means one who works for income, wages, salary, commission or other type of compensation in the service of and under the control of an employer.

- (9) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a income, salary, wage, commission or other compensation.
- (10) "Fiscal year" means an accounting period of twelve months or less, ending on any day other than December 31<sup>st</sup>.
- (11) "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or separate requests for refunds that contain all the information required on Owensville's regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering the Village's procedures for processing forms.
- (12) "Gross receipts" means the total revenue derived from sales, work done, or service rendered.
- (13) "Income" means all monies, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:
  - A. All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of Owensville.
  - B. All salaries, wages, commissions, therecompensation and other income from whatsoever source received by nonresidents for work done or services performed or rendered or activities conducted in Owensville.
  - C. The portion attributable to the Village of the net profits of all unincorporated business, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in Owensville.
- (14) "Non-resident" means an individual domiciled outside the Village of Owensville.
- (15) "Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Village of Owensville.
- (16) "Organization" means a corporation for profit or not for profit, a partnership, limited partnership, joint venture, unincorporated association, estate, trust or other commercial or legal entity. Organization does not include an entity organized as or by a governmental agency for the execution of a governmental program.
- (17) "Other Payer" means any person that pays an individual any item included in the taxable income of the individual, other than the individual's employer or that employer's agent.
- (18) "Person" means every natural person, partnership, fiduciary, association, corporation or other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporations, the

officers thereof.

- (19) "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 its regular employees regularly in attendance.
- (20) "Qualifying wage" means Wages as defined in Section 3121 (a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the Village of Owensville.
- (21) "Resident" means a person, whether an individual, partnership, association, corporation, or other entity, domiciled inside the Village.
- (22) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.
- (23) "Return Preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report, or other document for or on behalf of the taxpayer.
- (24) "Rules and regulations" means the rules and regulations as set forth in this Chapter and which are incorporated as the rules of interpretation of this chapter.
- (25) "Taxable income" means income minus the deductions and credits allowed by this ordinance. (See "Income" definition.).
- (26) "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 the a year, the period for which such return is required to be made.
- (27) "Taxpayer" means a person, whether an individual, partnership, association, or any other entity or organization, required hereunder to file a return or pay a tax.
- (28) "Village" means the Village of Owensville, Ohio.

(b) The singular shall include the plural, and the masculine shall include the feminine and the neuter.

### **160.03 IMPOSITION OF TAX**

Subject to the provisions of Section 160.25, an annual tax for the purpose specified in Section 160.01 shall be imposed at the rate of one percent (1%) per annum upon the following:

- (a) Resident Individuals. On all income, qualifying wages, including sick pay and vacation pay, commissions and other compensation earned or received during the effective period of this chapter by residents of the Village. Lottery, gambling, and sports winnings shall also be taxable, and in no circumstance shall deductions be allowed against these winnings. However, deductions shall be allowed against gambling and sports winnings, if the taxpayer is considered a professional gambler for federal income tax purposes.
- (b) Nonresident Individual. On all income, qualifying wages, including sick pay and

vacation pay, commissions and other compensation earned or received during the effective period of this chapter by nonresidents for work done or services performed or rendered in the Village.

(c) Resident Unincorporated Business.

- (1) On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village.
- (2) On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business activity.

(d) Nonresident Unincorporated Business.

- (1) On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all nonresident unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village, whether or not such unincorporated business entity has an office or place of business in the Village.
- (2) On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Village and not levied against such unincorporated business activity.

(e) Corporation. On the portion attributable to the Village of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the Village whether or not such corporations have an office or place of business in the Village.

(f) 12-Day Occasional Entry Rule. The Village shall not tax the compensation of an individual if all of the following apply.

- (1) The individual does not reside in the Village.
- (2) The compensation is paid for personal services performed by the individual in the Village on twelve or fewer days during a calendar year. A day is a full day or any fractional part of a day.
- (3) In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the Village and the individual pays tax on compensation described in subsection (b) hereof to the Village, if any, in which the employer's principal place of business is located, an no portion of that tax is refunded to the individual.
- (4) The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainer or sports event, or an employee of such a promoter, all as may be reasonably defined by the Village.

(g) Stock Options. Stock options or other compensation received in the form of

property are taxable when included on Form W-2 or Form 1099 for federal purposes.

#### **160.04 ALLOCATION FORMULA.**

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

#### **160.05 OPERATING LOSS CARRY FORWARD.**

(a) The portion of a net operating loss sustained in any taxable year allocable to the Village may be applied against the portion of the profits of succeeding year(s) allocable to the Village, until exhausted but in no event for more than five taxable years. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of a net operating loss sustained shall be allocated to the Village in the same manner as provided herein for allocating net profits to the Village. Losses from the operation of a business or profession are not deductible from compensation received as an employee.

(c) The Administrator shall provide by the rules and regulations the manner in which such net operating loss carry forward shall be determined.

#### **160.06 CONSOLIDATED RETURNS.**

(a) Any affiliated group which files a consolidated return for federal income tax purpose pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Village. However, once the affiliated group has elected to file a consolidated return or a separate return with the Village, the affiliated group may not change its method of filing in any subsequent tax year without approval from the Village.

(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 the Administrator 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 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, the Administrator shall make such allocation as the Administrator deems appropriate to produce a fair and proper allocation of net profits to the Village.

#### **160.07 EXCEPTIONS.**

(a) Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.

(b) 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 and only to the extent that the said income is exempt from federal income tax.

(c) Dues, contributions and similar payments received by charitable, religious, educational, or literary organizations or labor unions, trade associations, lodges, and similar organizations.

(d) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from seasonal or casual entertainment, amusement, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations associations and only to the extent that the said income is exempt from federal income tax.

(e) Precinct Official. Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess to one thousand dollars shall be subject to taxation. The payer of such compensation is not required to withhold Village tax from that compensation.

(f) Transit Authority. Compensation paid to an employee of a transit authority, regional transit authority, or regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Village, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Village, or the headquarters of the authority or commission is located within the Village.

(g) Public Utility. The income of a public utility when that public utility is subject to the tax levied under Section 5727.24 to 5727.30 of the Ohio Revised Code. However, subject to Section 5745 of the Ohio Revised Code, this exemption does not apply to the income of an electric company or combined company, and it does not apply to the income of a telephone company, as both are defined in Section 5727.01 of the Revised code.

(h) Pensions. Proceeds from welfare benefits, unemployment insurance benefits, Social Security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

(I) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages or to compensation from punitive damages.

(j) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. This minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

(k) Alimony received.

(l) Income, 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.

(m) Income, salaries, wages, commissions and other compensations and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of a municipality to impose net income taxes.

#### **160.08 NO CREDIT FOR ANOTHER TAX PAID.**

There shall be no credit allowed for the tax paid to another municipality.

#### **160.09 EFFECTIVE PERIOD.**

(a) - Return and Payment. Any person who earns taxable income shall make and file a return pursuant to this chapter.

(b) Dates and Exemptions.

- (1) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 of each year thereafter. When the return is made for a fiscal year for a period different from the calendar year, the return shall be filed 105 days from the end of the fiscal year or period.
- (2) The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by such employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by the taxpayer to the Administrator, may be accepted as the return required of any employee whose sole income, subject to the tax under this chapter, is such salaries, wages, commissions or other compensation.
- (3) Retirees having no taxable income for municipal income tax purposes shall be exempt from these filing requirements. Retirees shall notify the tax office of their exemption status on a Village tax return form or on a separate attachment, and shall include their date of retirement and company or organization from which retired. Tax forms shall not be mailed to the retiree after receipt of this notification by the Village tax office. This exemption from filing shall be in effect until and if such time the retiree receives taxable income for municipal income tax purposes, at which time the retiree shall be required to comply with the provisions of this chapter.

(c) 2106 Expenses. The Village shall deduct from the taxpayer's taxable income the amount shown as a deduction on Federal Form 2106, as filed with the Internal Revenue Service. (H.B. #65, 2-11-82). Such amounts must be properly reported on Form 2106 and must be verifiable. An employee who is permitted to deduct business expenses from gross wages, salaries,

or commissions must file a return in order to claim such deductions even though all or part of such wages, salaries, or commissions are subject to withholding.

(d) Forms for Filing. The return shall be filed with the Administrator on a form or forms furnished by or obtained upon request from the Administrator, or on a generic form as defined.

(e) The officer or employee of such employer having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes, penalties, or interest due.

(f) Any business, profession, association or corporation reporting a net loss is subject to the filing requirements of this chapter.

(g) The failure of any employer, taxpayer or person to receive or procure a return, declaration, or other required form shall not excuse him from filing any information return, tax return, declaration, or other required form, or from paying the tax.

#### **160.11 CONTENT OF RETURNS.**

The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request for the Administrator setting forth:

- (a) The aggregate amounts of income, salaries, wages, commissions and other compensation earned or received and gross receipts from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross receipts earned during the preceding year and subject to such tax.
- (b) The amount of the tax imposed by this chapter on such earnings and profits; and
- (c) Such other pertinent statements, information returns or other information as the Administrator may require, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Forms, and all applicable federal schedules.

#### **160.12 FILING EXTENSIONS.**

(a) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a Village tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Administrator.

(b) Any taxpayer not required to file a federal income tax return may request an extension for filing a Village tax return in writing.

(c) The request for extension shall be filed not later than the last day for filing the Village tax return as prescribed by ordinance or rule of this municipal corporation.

(d) A valid extension request extends the due date for filing a return to the last day of the month to which the due date of the federal income tax return has been extended.

(e) The Village may deny a taxpayer's request for extension if the taxpayer:



- (1) Fails to timely file the request;
- (2) Fails to file a copy of the federal extension request (if applicable);
- (3) Owes the Village any delinquent income tax or any penalty, interest, assessment or other charge for the late payment or nonpayment of income tax;
- (4) Has failed to file any required income tax return, report, or other related document for a prior tax period.

(f) The granting of an extension for filing a Village income tax return does not extend the last date for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 160.98. No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Administrator shall be granted with the understanding that declaration filing and payment requirements have been fulfilled; however, if upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

#### **160.13 PAYMENTS; REFUNDS.**

(a) Payments with Returns. The taxpayer making a return shall at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon.

(b) Overpayment; Refunds. A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder, or at the taxpayer's election indicated on the return, such overpayment or part thereof shall be refunded provided that no additional taxes are owed. Balances or overpayments of less than five dollars (\$5.00) shall not be collected or refunded.

(c) Taxes erroneously paid shall not be refunded unless a claim for a refund is 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.

#### **160.14 AMENDED RETURNS.**

(a) Where necessary an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 160.19. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village return showing income subject to the Village tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon, or make claim for refund of any overpayment.

#### 160.15 COLLECTION AT SOURCE

(a) Employee Withholding. In accordance with this Chapter and the rules and regulations prescribed by the Administrator, each employer within or doing business with the Village shall deduct Village income tax from income, salary, qualifying wages, vacation pay, sick pay, commissions, bonuses, tips, severance pay, incentive pay, deferred compensation, supplemental unemployment pay, third party sick pay or any other compensation at the time of payment of same to its employees, and at the rate provided in Section 160.03 hereof. The employer shall, on or before the fifteenth day of the month following such withholding, make a return and pay to the Administrator the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) So long as the taxes withheld by an employer for the Village during previous tax year averaged less than three hundred dollars (\$300.00) per month, payments may be made quarterly on or before the last day of the month following the end of the quarter, subject to the approval to Administrator. The Administrator may revoke the approval of quarterly filing and payments whenever he has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Village to do so. Notice of withdrawal shall be made in writing and, in such case, the employer must begin to file in accordance with this selection.

(c) If the taxes withheld by an employer for the Village during the previous tax year averaged three hundred dollars (\$300) per month or more, payments must be made on a monthly basis and shall be made on or before the fifteenth day of the month following the end of the month for which taxes were withheld.

(d) The officer or employee of such employer having control or supervision or charged with the responsibility of withholding the tax and making the payment, shall be personally liable for failure to withhold or pay the tax, penalties, or interest due as required herein. The dissolution, bankruptcy or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to withhold the tax or pay taxes, penalties, or interest due.

(e) The payment of taxes withheld shall be on a form obtainable from the Administrator, or on any acceptable generic form. Such employer, in collecting the tax, shall be deemed to hold the same as trustee for the benefit of the Village until payment is made by such employer to 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. 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.

(f) All employers that provide any contractual service within the Village, and who employ subcontractors in conjunction with that service, shall provide the Village the names and

addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.

(g) On or before February 28 of each year, each employer shall file a withholding tax reconciliation for the preceding calendar year, showing the sum total of all compensation paid to all employees, the portion of which, (if any), was not subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the Village tax was withheld, or should have been withheld, setting forth the name, address and social security number of each such employee, the total amount of compensation paid during the year, the amount of the Village tax withheld and such other information as may be required by the rules and regulations established by the Administrator. In lieu of submitting forms W-2 for each employee, an alternative method of reporting must be approved by the Administrator, or his duly authorized agent.

(h) On or before February 28 of each year, all individuals, businesses, employers, brokers or other who engage persons, either on a fee or commission basis or as independent contractors and not employees (those who are not subject to withholding) must provide the Administrator with copies of all 1099 Miscellaneous Income Forms and/or a list of names, addresses, Social Security numbers and a total amount of earnings, payments, bonuses, commissions and/or fees paid to each person.

(I) No person shall be required to withhold the tax on salaries, wages, commissions, other compensation and other income paid domestic workers employed by such person exclusively in or about such person's residence, even though the residence is in the city, but such employee shall be subject to all of the requirements of this chapter.

#### **160.16 DECLARATIONS.**

(a) Requirements of Filing. Every person who anticipates any taxable income from which the full amount of Village will not be withheld and/or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 160.03 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon.

- (b) (1) Calendar dates for filing. Such declaration shall be filed on or before April 15 of each year, during the life of this chapter.
- (2) Fiscal dates for filing. Those taxpayers reporting on a fiscal year basis shall file a declaration within 105 days after the beginning of each fiscal year or period.
- (c) (1) Forms. Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, or on an acceptable generic form.
- (2) Amended declarations. The original declarations (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

(d) Payments with Declarations.

- (1) Such declarations of estimated tax to be paid the Village by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth the estimated tax required to be paid by this section, and at least a similar amount shall be paid on or before the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year; provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (2) Estimated tax to be paid the Village by taxpayers who are corporations and associations shall be accompanied by a payment of at least one-fourth the estimated tax required to be paid by this section, and at least a similar amount shall be paid on or before the fifteenth day of the sixth, ninth, and twelfth of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(e) No penalties or interest shall be assessed for not filing a declaration on any resident taxpayer who was not domiciled in the Village on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year.

**160.17 ADMINISTRATOR DUTIES.**

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

(b) Responsibility for Maintenance of Records. It shall be the duty of the Administrator to enforce payment of all taxes owed the Village to keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payment thereof.

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

(d) Authorization for Payment of Unpaid Taxes. 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, the taxpayer is unable to pay the full amount of tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by the taxpayer under this chapter. Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 160.19 and 160.99 shall apply.

(e) Determination of Taxes. 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 the tax due, the Administrator may determine the amount of tax to be due the Village from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Administrator. If the taxpayer fails to respond to the assessment with 30 days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(f) Compromise Authority. The Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 160.99.

#### **160.18 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; CONFIDENTIALITY.**

(a) Examination of Taxpayer's Records. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for 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 within ten (10) calendar days following a written request by the Administrator, or the Administrator's duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) Appearance Orders to Taxpayer. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before the Administrator 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 and state income tax returns and the attendance of all persons before the Administrator, whether as parties or witnesses, whenever the Administrator believes such persons have knowledge of such income or information pertinent to such inquiry.

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

(d) 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 tax official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, shall upon conviction thereof, be deemed guilty of a misdemeanor of the fourth degree and may be assessed such penalties, whichever may be applicable. In addition to the above penalty, any employee of the Village who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Retention of Records. Every taxpayer shall retain all records necessary to compute their tax liability for a period of six years from the date the taxpayer's return is filed, or the withholding taxes are paid.

#### **160.19 TIME LIMITATIONS; AMOUNTS.**

(a) Suits. All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three years after the tax was due or the return was filed, whichever is later. However, in case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Village income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later.

(b) In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Administrator shall be one year from the time of the final determination of the federal tax liability.

(c) Refunds. Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes shall be brought within the time limitation provided in subsection (a) hereof. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

- (1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.
- (2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates

applied to the tax years in which deferrals occurred, a weighted average of the different tax rates will be used to compute the refund amount.

- (3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

(d) Income tax that has been deposited with the Village but should have been deposited with another municipality, is allowable by the Village as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village, but was deposited with another municipality, shall be subject to recovery by the Village. The Village will allow a non-refundable credit for any amount owed the Village that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the Village's tax rate. If the Village's tax rate is higher, the tax representing the net differences of the rates is also subject to collection by the Village.

(e) Amounts. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

#### **160.20 BOARD OF REVIEW; APPEALS.**

(a) Composition and Procedures. A Board of Review, consisting of a chairperson, and two other individuals each to be appointed by the Mayor, with the approval and consent of Council, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions.

(b) Appeals; Alternative Method of Allocation. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, shall be approved by the Board of Review before the same becomes effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation. Upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board of Review may nevertheless abate penalty or interest or both.

- (c) (1) Whenever the Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Village, the Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- (2) Any person who is aggrieved by a decision of the Administrator and who has filed with the Village the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed

- within thirty days after the Administrator has issued the decision.
- (3) The imposition of penalty and interest as prescribed in the codified ordinances of the Village is not a sole basis for an appeal.
  - (4) The Board of Review shall schedule a hearing within forty-five days after receiving the request, unless the taxpayer waives a hearing.
  - (5) If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
  - (6) The Board may affirm, reverse, or modify the Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen days after issuing the decision.
  - (7) Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to court of competent jurisdiction or to the State Board of Tax Appeals as provided by law within thirty (30) calendar days from the date of the Board's ruling or decision.
  - (8) The Board of Review created pursuant to this sections shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code.
  - (9) Hearings requested by a taxpayer before a Board of Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code, and the provisions of Section 160.18(d) with reference to the confidential character of information required to be disclosed by this chapter shall apply.

(d) Law Director Duties. The Village Legal Counsel shall serve as legal advisor to the Board.

#### **160.21 RENTAL PROPERTY TENANT INFORMATION.**

(a) Within thirty days after a new tenant occupies rental property of any kind within the Village, all property owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Administrator a report showing the names, addresses and telephone numbers, if available, of such tenant who occupies an apartment, room or other rental property within the Village.

(b) Within thirty days after tenant vacates an apartment, room or other rental property located within the Village, the property owner of such vacated rental property shall file with the Administrator, a report showing the date of vacation from the rental property and identifying each such vacating tenant.

(c) Whoever violates this section shall be fined not more than one hundred dollars (\$100.00) for each instance of not filing the required reports.



#### **160.22 MANDATORY REGISTRATION.**

(a) Each new resident of the Village shall register with the Administrator of the Village to become subject to the Village Income Tax within thirty day of residence in the Village.

(b) All employers and contractors who do work in the Village shall register with the Administrator within thirty days after they become taxable and shall present the Administrator a list of all subcontractors or others who may do work for them within the Village.

(c) Any person upon written notification by the Village of this requirement for mandatory registration who fails to register within thirty days upon receipt of notification shall be considered in violation of this section and shall be subject to a fine not more than one hundred dollars (\$100.00).

#### **160.23 SAVING CLAUSE.**

(a) If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter.

(b) It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional illegal or invalid sentence, clause, section or part thereof had not been included herein.

#### **160.24 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until the same has been repealed and insofar as the collection of taxes levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 160.19 and 160.99.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 160.10 through 161.15, as though the same were continuing.

#### **160.98 PENALTY AND INTEREST.**

(a) Interest and Penalties. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the same rate which Section 718.12 of the Ohio Revised Code requires be paid by municipalities on their income tax refunds, i.e., the federal short-term rate as defined in Section 5703.47 of that Revised Code, plus three percent (3%) per year.

(b) Exceptions. 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.

#### 160.99 VIOLATIONS; PENALTY.

(a) Enumeration of Violations. It shall be a violation of this chapter for any person to:

- (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 such persons' employees or remit such withholdings to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine the 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 the books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profit of a taxpayer; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to the true name, correct social security number and residence address or promptly notify an employer of any change in residence address and date therefore; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Village tax withheld, or to knowingly give the Administrator false information; or
- (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(b) Penalty. Whoever violates any provisions set forth above shall be guilty of a misdemeanor of the fourth degree and may be assessed such penalties, including fines and imprisonment, as the same are set forth in Ohio R.C. 2929.21 and 2929.31, whichever may be applicable.

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