

## Ordinance 2012-07

An Ordinance Declaring the Amount of Income Tax that May be Raised at the Maximum Rate Authorized by Law Without a Vote of the Electors to be Insufficient and Declaring the Necessity of an Income Tax Levy in Excess of Such Rate

WHEREAS, the Village deems it necessary to finance a police and fire department to provide continued police and fire protection to the Village; and

WHEREAS, present income tax funding is deemed insufficient to provide continued police and fire protection to the Village; and

WHEREAS, the Village deems it necessary to obtain the approval of the electors of said Village to levy an income tax in excess of one percent as provided by law; and

WHEREAS, the filing deadline with the Gallia County Board of Elections for the placing of same on the ballot for a vote on November 6, 2012, is August 8, 2012;

NOW THEREFORE BE IT ORDAINED by the Council of the Village of Rio Grande, Ohio:

SECTION 1: That the amount of income taxes that may be raised at the maximum rate authorized by law without a vote of the electors is insufficient to provide an adequate amount of funding for the police and fire protection wages/benefits, equipment, supplies, and apparatus for the Village police and fire departments and that a new income tax levy in excess of the amount allowed by law is necessary for the purpose of providing additional funds for said police and fire protection wages/benefits, equipment, supplies, and apparatus.

SECTION 2: That it is necessary to levy income taxes in excess of the one percent allowed by law at the rate of a half percent (1/2%) for the calendar years of 2013, 2014, 2015, 2016, and 2017.

SECTION 3: That the Fiscal Officer and/or Mayor be, and they are hereby directed to certify a copy of this Ordinance to the Gallia County Board of Elections in order that said office may take the necessary arrangements for the submission of such question to the electors of the Village of Rio Grande, Ohio, at the election to be held November 6, 2012, as provided by law, and, further, they be directed to do whatever else necessary in and about said premises.

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

INCOME TAX ORDINANCE #80-11

ORDINANCE NO. 80-11 ENACTING AN EARNED INCOME TAX,  
INCLUDING INCOME TAX REGULATIONS, FOR THE  
VILLAGE OF RIO GRANDE, OHIO.

WHEREAS, the Village Council has recommended the passage of this Ordinance as a measure in accordance with the By-Laws of the Village of Rio Grande, said ordinance being necessary to secure revenue for the daily operation of the Village and to insure the funds to provide for the immediate preservation of the public health, safety, and property; and

WHEREAS, the Village Council finds that said ordinance should be passed as an ordinance in order to secure revenue for the daily operation of the Village and to insure the continuous, uninterrupted delivery of said services and to secure funds to provide for the immediate preservation of the public health, safety, and property.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF RIO GRANDE, STATE OF OHIO, by an affirmative vote of a majority of the member elected thereto:

SECTION 1:

CHAPTER 27: EARNED INCOME TAX, INCLUDING INCOME TAX  
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**Section 27.01: Purpose:**

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village, there shall be, and is hereby levied a tax on salaries, wages, commission and other compensation, and on net profits as hereinafter provided.



## Section 27.02: Definitions:

As used on Sections 27.01 to 27.16, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator of Taxation." A person designated and appointed by the Village Council who shall administer and enforce the provisions of this chapter.
- (b) "Association." A partnership, limited partnership or any other form of unincorporated enterprises, owned by two or more persons.
- (c) "Board of Review." The board created by and constituted as provided in Sections 27.13 and 27.77.
- (d) "Business." An enterprise, activity, profession or undertaking of any nature conducted for profits, whether by an (sic) individual, partnership, association, corporation or any other entity.
- (e) "Corporation." 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) "Employer." An individual, partnership, association, corporation, governmental body, unit or agency or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Employee." One who works for wages, salary, commission or other type of compensation in the service of an employer.
- (h) "Fiscal Year." An accounting period of twelve (12) months ending on any day other than December 31.
- (i) "Gross Receipts." The total income from any source whatsoever.
- (j) "Net Profit." 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 ordinance, 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; and otherwise adjusted to the requirements of this chapter.
- (k) "Non-Resident." An individual domiciled outside the Village.
- (l) "Non-Resident Unincorporated Business Entity." An unincorporated business entity not having an office or place of business within the Village.
- (m) "Person." Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" is applied to any unincorporated, the officers thereof.

- (n) "Place of Business." Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (o) "Resident." An individual domiciled in the Village.
- (p) "Resident Unincorporated Business Entity." An unincorporated business entity having an office or place of business within the Village.
- (q) "Taxable Income." Wages, 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 ordinance.
- (r) "Taxable Year." The calendar year, or the fiscal year, the time frame in which the net profits are to be computed under this chapter, and in case of a return for a fractional part of a year, the period for which such return is required to be made.
- (s) "Taxpayer." A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.
- (t) The singular shall include the plural, and the masculine shall include the feminine and the neuter.

**Section 27.03: Imposition of Tax:**

- (A) Subject to the provisions of Section 27.16, an annual tax for the purposes specified in Section 27.01 shall be imposed on and after March 9, 1981, at the rate of one percent (1%) per annum upon the following:
  - (1) On all salaries, wages, commissions and other compensations earned during the effective period of the ordinance by residents of the Village.
  - (2) On all salaries, wages, commissions and other compensation earned by non-residents for (sic) work done or services performed or rendered and business or other activities conducted in the Village.
  - (3) (a) On the portion attributable to the Village of the net profits 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.  
(b) On the portion of the distributive share of the net profits of a resident partner or owner of a resident unincorporated business entity not attributable to the Village and not levied against such unincorporated business entity.
  - (4) (a) On the portion (sic) attributable to the Village of the net profits of all non-resident unincorporated businesses, professions or other entites, 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.

**Section 27.04: Effective Period of Tax:**

The income 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 after March 9, 1981.

**Section 27.05: Return and Payment of Tax:**

- (A) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30, 1982 and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period.

The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such salary, wages, commissions or other compensation.

- (B) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from the Administrator setting forth:
- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax.
  - (2) The amount of the tax imposed by this chapter on such earnings and profits.
  - (3) Such other pertinent statements, information returns, or other information as the Administrator may require.
- (C) The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) 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) (1) The Taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 27.06 or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 27.07 or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 27.15 shall (sic) 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 the return.

- (2) A taxpayer who has overpaid the amount of tax to which the Village is entitled under the provisions of this (sic) chapter may have such overpayment applied against any subsequent liability hereunder or at his election indicated on the return of the overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than One Dollar (\$1.00) shall be collected or refunded.

(E) Amended Returns

- (1) Where necessary, an amended return must be filed in order to report additional income and pay any additional tax due, the requirements and/or limitations contained in Section 27.11 and 27.15. These amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
- (2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's village tax liability, the taxpayer shall make and file an amended village return showing income subject to the Village tax used upon such final determination of federal tax liability and pay any additional tax shown due thereon or make claim for refund of any overpayment.

**Section 27.06: Collection at Source:**

- (A) In accordance with rules and regulations prescribed by the Administrator, such employer within or doing business within the Village shall deduct at the time of the payment of the salary, wage, commission or other compensation, the tax of 1 percent of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall, on or before the last day of the month following the close of each previous calendar month make a return and pay to the Administrator the amount of taxes so deducted. These returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the rules and regulations prescribed therefor (sic) by the Administrator. The 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) The employer in collection the tax shall be deemed to hold the same until payment (sic) is made by the employer to the Village as a trustee for the benefit of the Village and any tax collected by the employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.

#### Section 27.07: Declarations:

- (A) Every person who anticipates any taxable income which is not subject to Section 27.05 or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 27.03 shall file a declaration setting forth estimated income or the estimated profit or loss from business activity, together with the estimated tax due thereon, if any, provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village, in accordance with Section 27.06, such person need not file a declaration.
- (B) (1) The declaration shall be filed on or before April 30 of each year during the life of this chapter, or within four (4) 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 (4) months after the beginning of each fiscal year or period.
- (C) (1) The declaration shall be filed upon a form furnished by or obtainable from the Administrator; provided, however, credit shall be taken for the Village tax to be withheld from any portion of the income. In accordance with the provisions of Section 27.15, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.  
(2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (D) The declaration of estimated tax to be paid the Village shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.
- (E) On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village shall be paid therewithin accordance with the provisions of Section 27.05.



**Section 27.08: Duties of the Administrator:**

- (A) (1) It shall be the duty of the Village Auditor 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.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing the Village; to keep accurate records for a minimum of five (5) 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 payments.
- (B) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of return.

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. The authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the chapter.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable to demand and the provisions of Section 27.11 and 27.12 shall apply.

- (C) In any case where a taxpayer has filed 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 to the Village from the taxpayer and shall send to the taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.
- (D) Subject to the consent of the Board of Review or pursuant to regulations approved by the Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 27.10.

**Section 27.09: Investigative Powers of the Administrator;  
Penalty for Divulging Confidential Information:**

- (A) The Administrator, or anyone authorized to examine the books, papers and records of any employer or of any taxpayer or person 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.

**Section 27.10: Interest and Penalties:**

- (A) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of the chapter and remaining unpaid after they become due shall bear interest at the rate of one-half percent (1/2%) per month or fraction thereof.
- (B) In addition to interest as provided in paragraph (a) hereof, penalties used on the unpaid tax are hereby imposed as follows:
  - (1) For failure to pay taxes due, other than taxes withheld: one-half percent (1/2%) per month or fraction thereof.
  - (2) For failure to remit taxes withheld from employees. Three percent (3%) per month or fraction thereof.
- (C) 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 or interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.
- (D) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

**Section 27.11: Collection of Unpaid Taxes and Refunds of Overpayments:**

- (A) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later; provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period shall be one (1) year from the time of the final determination of the federal tax liability.
- (B) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date from which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.
- (C) Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.

**Section 27.12: Violations, Penalties:**

- (A) Any person who shall
  - (1) Fail, neglect or refuse to make any return or declaration required by this chapter; or
  - (2) Make any incomplete, false or fraudulent return, or
  - (3) Fail, neglect or refuse to 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 and papers relating to the income or net profits of a taxpayer; or
  - (6) Fail to appear before the Administrator and to produce his books, records or papers relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
  - (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
  - (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify any employer of any change in residence address and date thereof; or
  - (10) Fail to use ordinary diligence in maintaining proper records of employees residence addresses, total wages paid and Village tax withheld, or to knowingly give the Administrator false information; or
  - (11) Attempt to do anything whatever to avoid the payment of the whole or any part of interest imposed by this chapter;  
shall be guilty of a misdemeanor and shall be fined not more than Five Hundred and No/100 Dollars (\$500.00\$ or imprisoned not more than six (6) months, or both, for each offense.
- (B) All prosecutions under this Section must be commenced within three (3) 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 prosecution must be commence five (5) years from the date the return was due or the date the false or fraudulent return was filed.
- (C) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

**Section 27.13: Board of Review:**

- (A) A Board of Review, consisting of the president of the Village Council or his designated appointee from the remaining members of the Rio Grande Village Council, is hereby created, a majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 27.09, with reference to the confidential character of information required to be disclosed by the ordinance, shall apply to such matters as may be heard before the Board of Review.
- (B) All rules and regulations and amendments or changes thereto which are adopted by the Administrator under the authority conferred by this ordinance must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.
- (C) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance may appeal therefor to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator; and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

**Section 27.14: Allocation of Funds:**

The funds collected under the provisions of this chapter shall be deposited in the General Fund.

**Section 27.15: Credit for Tax Paid to Another Municipality:**

- (A) Where a resident of the Village is subject to a municipal income tax in another municipality, he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.
- (B) Every individual taxpayer who resides in the Village who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the village, if it be made to appear that he has paid a village income tax on the same income taxable under this chapter to another municipality, shall be allowed a credit against the tax imposed on this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this chapter on such income earned in such other municipality or municipalities where such tax is paid.
- (C) A claim for refund or credit under this Section shall be made in such manner as the Administrator may, by regulation, provide.



**Section 27.16: Collection of Tax after Termination of Ordinance:**

- (A) This chapter shall continue effective insofar as the levy of taxes is concerned and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 27.11 and 27.12.
- (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 27.05 and 27.06 as though the same were continuing.

## INCOME TAX REGULATIONS

### Section 27.50: Definitions:

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

- (a) "Taxpayer" A person whether an individual, partnership, corporation, association or other entity.
- (b) "Association" A partnership, limited partnership or any other form of unincorporated enterprise, owned by two (2) or more persons.
- (c) "Business" An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, limited partnership, corporation, association or any other entity.
- (d) "Corporation" A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
- (e) "Employer" An individual whose earnings are subject to the withholding of federal income tax or social security tax.
- (f) "Employer" An individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (g) "Net Profits" The net gain from the operation of a business, profession or enterprise after provision for all costs and expenses incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserves for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed, and without deduction of federal taxes imposed by this chapter.
- (h) "Person" Every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to association, shall mean the partners or members thereof; and as applied to corporations, the officers thereof.
- (i) "Resident" An individual, partnership, limited partnership, corporation, association or other entity domiciled in the Village.
- (k) "Other Entity" The term "other entity" means any person or unincorporated body not previously named or defined and includes inter alia, fiduciaries located within the Village.
- (l) "Place of Business" Any bona fide office (other than a mere statutory office), factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regular

in attendance.

A taxpayer does not have a regular place of business outside the Village of Rio Grande solely by consigning goods to an independent factor or contractor outside the Village for sale.

- (m) "Business Allocation Percentage" The average percentage arrived at by applying the formula set forth in Section 27.03(b); the percentage which may be applied to determine the portion of the entire net profits of a taxpayer to be allocated as having been made within the Village within the meaning of the provisions of Section 27.03(B).
- (n) "The Ordinance"- Ordinance No. 80-11, enacted by the Rio Grande Village Council, Ohio on February 1981 and an amendments or supplements thereto.

**Section 27.51: Commencement of the Tax:**

The tax imposed by this chapter is effective as to income and profits earned or accruing on and after March 9, 1981, and payroll deductions must be made against all salaries, wages, commissions, bonuses and other compensations earned or accruing on and after that date.

**Section 27.52: Imposition of Tax; Resident Employees:**

In the case, of the residents of the Village, an annual tax of one percent (1%) is imposed on all salaries, wages, commissions and other compensation earned or accrued on and after March 9, 1981. For the purpose of determining the tax on the earnings of the resident taxpayers, taxed under Section 27.03, the source of the earnings and the place or places in or at which the services were rendered are immaterial. All such earnings, wherever earned or paid, are taxable.

The following are items which are subject to the tax:

- (A) Salaries, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after March 9, 1981.
  - (1) As an officer or employee, or both, of a corporation (including charitable and other non-profit corporations), joint stock association or joint stock company;
  - (2) As an employee (as distinguished from a partner or member) of a partnership, limited partnership or any other form of unincorporated enterprise owned by one or more persons;
  - (3) As an employee (as distinguished from the proprietor) of a business, trade or profession conducted by individual owner;
  - (4) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the State of Ohio or any of the political subdivisions thereof;
  - (5) As an officer or employee (whether elected, appointed or commissioned) of a governmental administration, agency, arm, authority, board, body, branch, bureau, department, division, subdivision, section or unit of the United States Government or of a corporation created and owned or controlled by the United States Government or any of its agencies.
  - (6) As an employee of any other entity or person.
- (B) Wages, bonuses, or incentive payments received by an individual, whether directly or through an agent and whether in cash or in property, for services rendered on and after March 9, 1981.
  - (1) Whether based upon hourly, daily, weekly, semimonthly, monthly, annual, unit of production or piecework rates;
  - (2) Whether paid by an individual, limited partnership, partnership, association, corporation (including charitable and other non-profit corporations), governmental administration, agency, arm, authority, board, body, branch, department, division, subdivision, section or unit, or any

other entity.

- (C) Commissions received by a taxpayer whether directly or through an agent and whether in cash or in property, for services rendered on and after March 9, 1981, regardless of how computed, by whom or wheresoever paid.

If amounts received as a drawing account exceed the commissions earned, the tax is payable on the gross amounts received.

Amounts received from the employer by way of expenses and not by way of compensation, and used as such by the individual receiving them, are not deemed to be compensation if the employer deducts such expense advances as such from his gross income for the purpose of determining his net profits taxable under this chapter.

If such commissions are included in the net earnings of a trade, business, profession, enterprise or activity regularly carried on by such individual and, therefore, subject to tax under Section 27.03(A). They shall not again be separately taxed. In such case, such net earnings shall be taxed as provided in Section 27.60.

- (D) The receipt of fees and other compensation for personal services rendered shall be deemed to be subject to taxation under this chapter.
- (E) Domestic servants are subject to Village Tax under this chapter but are not subject to withholding provisions. That is to say, the domestic will report earnings and pay the tax directly to the Rio Grande Income Tax Department.

The provisions of this chapter shall not be construed as levying a tax upon the following:

- (1) Poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations.
- (2) Proceeds of insurance, annuities, workmen's compensation insurance, social security benefits, pensions, compensation for damages for personal injuries and like reimbursement, not including damages for loss of profits.
- (3) Compensation for damage to property by way of insurance or otherwise.
- (4) Interest and dividends from intangible property.
- (5) Military pay and allowances received as a member of the Armed Forces of the United States.
- (6) Any charitable, educational, fraternal or other type of non-profit association or organization enumerated in Section 718.01 of the Revised Code which is exempt from payment of the tax imposed by this chapter.
- (7) Any association or organization falling in the category listed in the preceding paragraph not exempt from the payment of real estate taxes is

required to file declarations and final returns and remit the taxes levied under this chapter on all business activities of a type ordinarily conducted for profit by taxpayers operating for profit.

- (8) Where such non-profit association or organization conducts income producing business both within and without the corporate limits, it shall calculate its profits allocable to the Village under the methods provided above.

**Section 27.53: Imposition of Tax; Non-Residents:**

In the case of individuals who are non-residents of the Village, there is imposed under the chapter an annual tax of one percent (1%) on all salaries, wages, commissions and other compensation, earned or accruing on and after March 9, 1981, for work done or services performed or rendered within the village, whether such compensation or remuneration is received or earned directly or through an agent and whether paid in cash or in property.

The items subject to tax under this section are the same as those listed and defined in Section 27.52. For methods of computing the extent of such work or services performed within the Village, and cases involving compensation for personal services partly within and partly outside the Village, see Section 27.63.



**Section 27.54: Imposition of Tax; Net Business Profits; Residents:**

- (A) In the case of trades, businesses, professions, other activities, enterprises or undertakings conducted, operated, engaged in, prosecuted or carried on by residents of the Village, there is imposed an annual tax of one per cent (1%) on the net profits earned or accruing on or after March 9, 1981.
- (B) For the purpose of construing Section 27.03, the term "residents" in the phrase conducted by residents of the Village will ordinarily be construed to have reference to the business entity itself, as distinguished from the partners, proprietors or other participants in its profits.
- (C) Generally, a partnership, association or other unincorporated enterprise owned by two (2) or more persons will be taxed as an entity. However, in the case of a non-resident partnership, association or unincorporated enterprise which cannot be reached or taxed directly by the Village, or if only part of its earning may be directly taxed, then in either such case, resident partners, co-owners, proprietors or other participants in the profits thereof must include in their declaration and tax return or returns their distributive shares of such profits or portion thereof not taxed to the business enterprise as an entity, and must pay the tax thereon.
- (D) The tax imposed under Section 27.03 is levied upon the entire net profits of the resident trade, business, profession, other activity, enterprise or undertaking, wherever earned, paid or accrued and regardless of the fact that any part of such business or professional activity may have been conducted at or through a place or places of business located outside the Village.

**Section 27.55: Imposition of Tax; Net Business Profits; Non-Residents:**

- (A) In the case of a non-resident individual, partnership, association, fiduciary or other entity (other than a corporation) engaged in the conduct, operation or prosecution of any trade, business, profession, enterprise, undertaking or other activity, there is imposed an annual tax of one per cent (1%) of the net profits earned or accruing on and after March 9, 1981, of such trade, business, profession, enterprise, undertaking or other activity if and to the extent, conducted in or derived from activity on the Village.
- (B) A non-resident entity within the meaning of Section 27.03 which has a branch or branches, office or offices and/or store or stores, warehouse, or other place or places in which the entity's business is transacted, located in the Village, shall be considered to be conducting, operating, prosecuting, or carrying on a trade, business, profession, enterprise, undertaking or other activity to the full extent of the sum total of all transactions originating or consummated in, by or through the Pomeroy branch, office, store, warehouse or other place of business, including (1) billings made on such transactions or (2) services rendered, or (3) shipments made, or (4) goods, chattels, merchandise, etc., sold, or (5) commissions, fees other remuneration or payments earned.
- (C) In the case of the partnership, association, or other unincorporated business owned by one or more persons, the tax, generally, shall be upon said partnership, association, or business enterprise as an entity and not ordinarily upon the partners or members thereof. However, the provisions of Section 27.54 are applicable to render taxable against such resident partners or member their distributive share of any profits of such non-resident entity not taxable under this chapter.
- (D) In determining the proportion or amount of the taxable net profits of non-resident business entity having a place or places of business within and outside the Village, such business entity may, at its option, use and apply the business allocation percentage formula set forth in Section 27.03. For explanation of formula, see Section 27.57.

**Section 27.56: Imposition of Tax; Net Business Profits; Corporations:**

- (A) In the case of a corporation doing business in Rio Grande whether domestic or foreign, and whether domiciled in Rio Grande, or elsewhere, there is imposed an annual tax of one per cent (1%) on that part of the corporations, which is earned by such corporations as result of work done or services performed or rendered and business or other activities conducted in the Village.
- (B) The provisions of Section 27.55 are applicable to such corporations.
- (C) A corporation doing business both within and outside the Village may, in determining the part of the net profits which are taxable under this chapter, at its option:
  - (1) Use the usual accounting system of the taxpayer corporation, so long as said usual accounting system shall be one acceptable to the U.S. Internal Revenue Department, as evidenced by acceptance and approval of income tax returns filed herein; or
  - (2) Use the business allocation percentage formula set forth in Section 27.03.

**Section 27.57: Business Allocation Percentage:**

- (A) At the option of a corporate taxpayer or of a non-resident business entity, such taxpayers may, but are not obliged to, use the formula set forth in Section 27.03 to compute the percentage of their entire net profits (derived from activities both within and outside the Village) which is taxable under the chapter, and to determine the tax payable to the Village thereunder.

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

If the taxpayer had a place of business outside Rio Grande, and was doing business in Rio Grande during such period, the business allocation percentage shall be computed on the following basis (Section 718.02), Revised Code):

- (1) In the taxation of income which is subject to taxation by the provisions of the chapter, if the books and records of a taxpayer conducting a business or profession both within and without the boundaries of the Village, shall disclose with reasonable accuracy what portion of its net profit is attributable to that part of the business or profession conducted within the boundaries of the Village, then only such portion shall be considered as having a taxable situs in the Village for purposes of Village income taxation. In the absence of such records, net profit from a business or professional conducted both within and without the boundaries of the Village shall be considered as having a taxable situs in the Village for purposes of Village income taxation in the same proportion as the average ratio of:
- (a) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the Village during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by 8:

- (b) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village to wages, salaries, and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed.
- (c) Gross receipts of the business or profession from sales made and services performed during the taxable

period in the Village to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the forgoing allocation formula does not produce an equitable result, another basis may, under uniform regulations be substituted so as produce such result.

(2) As used in division (1) (c) of this sub-section, "sales made in the Village" means

(A) All sales of tangible personal property delivered within the Village regardless of where title passes if shipped or delivered from stock of goods within such Municipal Corporation.

(B) All sales of tangible personal property shipped from a place within the Village to purchasers outside the Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

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

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

**Example 1:**

Corporation having places of business in Rio Grande, Detroit, and Cleveland.

Rio Grande real and tangible personal property, \$10,000.00. All real and personal property (Rio Grande, Detroit, Cleveland) \$100,000.00.

Percentage: 10 per cent.

Rio Grande payroll: \$6,000.00. All payroll \$20,000.00. Percentage: 30 percent plus 3 equals 20 per cent.

**Example 2:**

Same corporation owning real and tangible personal property anywhere.

Rio Grande sales: \$15,000.00. All sales \$75,000.00. Percentage: 20 per cent.

Rio Grande payroll: \$6,000.00. All payroll: \$20,000.00. Percentage: 20 per cent.

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

**Example 3:**

Same corporations owning real and tangible personal

property in Rio Grande, valued at \$10,000.00 and owning no real or tangible personal property outside Rio Grande. Other factors same as in Examples 1 and 2.

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

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

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

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

(C) Explanation of "business receipts factor". Receipts from the following are also allocable to Rio Grande.

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

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

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

- (1) Compensation and other receipts for work done or services performed within Rio Grande are allocable to Rio Grande and taxable under this chapter. All amounts so received, credited or charged by taxpayer

in payment for such work or services are so allocable, irrespective of whether done or performed by employees or agents of taxpayer, by sub-contractors, or by any other persons, it is immaterial where payable or where they were received.

- (2) Commission or fees received by the taxpayer are allocated to Rio Grande if the services for which the commissions were paid were performed in Rio Grande. If the taxpayer's services for which commissions or fees were paid were performed for the taxpayer by salesmen or other agents or employees attached to or working out of a Rio Grande place of business of the taxpayer, the taxpayer's services will be determined on the basis of such services within and without Rio Grande.
- (3) Other business receipts: Receipts from sale of capital assets (property not held by the taxpayer for sale to customers in the regular course of business) are not business receipts. Receipts from the sale of real property held by the taxpayer as a dealer for sale to customers in the regular course of business are business receipts and are allocable to Rio Grande if the real property was situated in Rio Grande. Receipts from sales of intangible included in business capital, held by the taxpayer as a dealer for sale to customers in the regular course of business, are business receipts and are allocable to Rio Grande if the sales were made in Rio Grande or through a regular place of business of the taxpayer in Rio Grande.
- (E) Payroll factor. The percentage of the taxpayer's payroll allocable to Rio Grande is determined by dividing the wages, salaries and other personal service compensation of the taxpayer's employees during such period.

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

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

paid to employees attached to places of business outside Rio Grande who performed a substantial part of their services within Rio Grande, the computation of the payroll reflect the amount of the taxpayer's business done within Rio Grande by its employees, the Village's Tax Administrator may require the payroll factor to be computed on the basis of the amount of compensation paid for services performed within and without the Village. In any such case, where an employee performed services both within and without Rio Grande, the amount treated as compensation for services performed within Rio Grande shall be deemed to be (1) in the case of an employee whose compensation depends directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for business attributable to his efforts within Rio Grande. (2) in the case of an employee whose compensation depends on other results achieved, the proportion of the total compensation which the value of his services within Rio Grande bears to the value of all his services; and (3) in the case of an employee compensated on a time basis, the proportion of the total amount received by him which the working time employed in Rio Grande bears to the total working time.

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



**Section 27.58: On What Earnings or Net Profits Tax First Levied:**

- (A) The tax referred to in Sections 27.52 and 27.53 shall first be levied, collected and paid with respect to the salaries, wages, bonuses, incentive payments, commissions, fees and/or other compensation earned on and after March 9, 1981.
- (B) The tax referred to in Sections 27.54, 27.55 and 27.56 with respect to net profits of trades, businesses, professions, enterprises, undertakings and other activities shall first be levied, collected and paid with respect to such net profits earned or accrued (in accordance with the regular accounting systems of taxpayer as approved by the U.S. Collector of Internal Revenue) from and after March 9, 1981.
- (C) But see Section 27.59 for fiscal year returns.

**Section 27.59: Fiscal Years:**

Where the fiscal year of a trade, business, profession, enterprises, undertaking and/or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the first fiscal year with respect only to such portion thereof as was earned on and after March 9, 1981.

A fiscal year will be recognized only if it has been or may be recognized as such by the Director of Internal Revenue for the purpose of federal income tax.

**Section 27.60: Net Business Profits:**

In amplification of the definition contained in Section 27.50 (G) of these regulations but not in limitation thereof, the following additional information and requirements respecting net business profits are furnished:

- (A) Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the federal income tax must in each instance be used.
- (B) Where the books and records are kept on an "accrual basis," "long-term contract basis" or "installment basis", and/or the accrual basis, long-term contract basis or installment basis is used in the filing of federal income tax returns, such basis must be used for the purpose of the tax.
- (C) If the return is made on a "cash basis", gross profit shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses in action and services, except as hereinafter provided.
- (D) If the return is made on an "accrual basis", gross profit shall include (1) commissions, fees and interest earned, plus (2) the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses in action and services, except as hereinafter provided.
- (E) From gross profit, there shall be subtracted allowable expenses to arrive at the net profits subject to tax.
- (F) All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed (but no deduction may be claimed for "salary" or withdrawals of a proprietor or of the partners, members or other co-owners of an unincorporated business or enterprise).
- (G) If not claimed as part of the cost of goods sold or elsewhere in the return filed, there may be claimed and allowed a reasonable deduction for depreciation, depletion, obsolescence, losses resulting from theft or casualty not compensated for by insurance or otherwise, of property used in the trade or business, but the amount may not exceed that recognized for the purpose of the federal income tax. Provided, however, that loss on the sale, exchange or other disposition of depreciable property and real estate used in business, shall not be allowed as a deductible expense.
- (H) Bad debts in a reasonable amount may be allowed in the year ascertained worthless and charged off, or if the reserve method is used, a reasonable addition to the reserve may be claimed, but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the federal income tax.
- (I) Taxes. Only taxes directly, connected with the

taxpayer's business may be claimed as a deduction. If for any reason the income from property is not subject to tax, then the tax on said property is not deductible from income:

- (1) The tax under this chapter;
- (2) Any federal taxes based upon income;
- (3) Gifts, estate or inheritance taxes, and
- (4) Taxes for local benefits or improvements to property which tend to appreciate the value thereof.
- (J) Capital gains and losses (including gains or losses from the sale, exchange or other disposition of depreciable business property, and real property used in the taxpayer's trade or business) shall not be taken into consideration in arriving at "net profits earned".
- (K) If the taxpayer is a non-resident, only the amount of net profits applicable to the activities of the business in Rio Grande shall be subjected to tax. If the non-resident taxpayer's records do not disclose the actual net profits from the Rio Grande branch, office, store, or activity separately, then the basis of allocation shall be disclosed in the return. If such basis of allocation is not deemed correct in view of all the known circumstances, the Village Tax Administrator shall make a re-allocation based upon gross receipts or any other basis which shall, under the circumstances of the case, more accurately reflect the net profits.
- (L) In general, all business expense recognized and to the extent allowed as such for the purpose of determining federal income tax will be recognized and allowed for determining Rio Grande income tax under the provisions of this chapter, may not be deducted in determining taxable net profits hereunder.
- (M) In general, unearned income is not to be included in computing the tax levied hereunder. Gain or loss from the sale, exchange or other disposition of capital assets, including depreciable property and real estate used in business, shall not be included in determining net profits. Income from intangibles, by way of dividends, interest and the like, should not be included if property from which such income is derived is subject to taxation under the intangible personal property tax laws of the State of Ohio, or is specifically exempted from taxation under those laws.
- (N) Rentals received by the taxpayer are to be included only if and to the extent that the rental, ownership, management or operation of the real estate from which such rentals are derived (whether so rented, managed or operated by taxpayer individually or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Following are the circumstances under which, in any instance, the rental of any real property shall or shall not

be deemed to be in a "business activity".

- (1) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of One hundred and No/100 Dollars (\$100.00) per month, it shall be prima facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds \$100.00 per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in the crops or when the rental is based on a percentage of the gross or net receipts derived from the farms, whether or not the gross income exceeds \$100.00 per month; and provided, further, that the person who operates a rooming house shall be considered in business whether or not the gross income exceeds \$100.00 per month.
- (2) In determining the amount of gross monthly rental of any real property, periods during which (by reason of vacancy or any other cause) rentals are not received shall not be taken into consideration by the taxpayer.
- (3) Rentals received by a taxpayer engaged in the business of buying and selling real estate shall be considered as part of business income.
- (4) Real property, as the term is used in this regulation, shall include commercial property, residential property, farm property and any and all other types of real estate.
- (5) In determining the taxable net income from rentals, the deductible expenses shall be of the same nature, extent and amount as are allowed by the Department of Internal Revenue for federal income tax purposes.
- (6) Residents of Rio Grande are subject to taxation upon the net income from rentals (to the extent above specified) regardless of the location of the real property owned.

Non-residents of Rio Grande are subject to such taxation only if the real property is situated within the Village, whether gross monthly rentals exceed \$100.00 shall take into consideration only real estate situated within Rio Grande.

- (7) Income from royalties or copyrights is not to be included.

**Section 27.61: Reconciliation with Federal Return:**

If, as a result of a change made in business income by the Federal Bureau of Internal Revenue, or by a judicial decision, an additional amount will result as owing to the Village, a report of such change shall be filed by the taxpayer within three (3) months after receipt of the final notice of such change from the federal authorities or after final decision of a court adjudicating any such federal income tax liability.

**Section 27.62: Return and Payment of Tax:**

- (A) On or before April 30, 1982 every taxpayer engaged in any business, the net profits of which are subject in whole or in part to the tax imposed by this chapter, shall make and file with the Village Tax Administrator, a final return on a form furnished by or obtainable from the Village Tax Administrator. Thereafter, each such taxpayer shall, on or before April 30 of each subsequent year, make and file a final return with the Village Tax Administrator. Like returns shall be filed at the same time and in the same manner by all persons whose wages, salaries, bonuses, incentive payments, commissions, fees and other compensation received during the preceding taxable year are subject to the tax imposed by the chapter. However, where an employee's entire earnings for the year are paid by an employer and the one per cent (1%) tax thereon has, in each instance, been withheld and deducted by the employer from the gross amount of the entire earnings of such employee-taxpayer, and where the employer of such employee has filed a report or return in which such employee's entire and only earnings are reported to the Village Tax Administrator, no taxable income other than such earning, it shall not be necessary for such employee to file a return for any taxable year in which such conditions have prevailed.

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

- (B) In all returns filed hereunder, there shall be set forth the aggregate amount of salaries, wages, bonuses, incentive payments, commissions, fees and other compensation received and/or net profits earned (all as hereinbefore defined) by and during the preceding year and subject to said tax, together with such pertinent information as the Village Tax Administrator may require.
- (C) If the return is made for a fiscal year or for any period other than a calendar year, the said return shall be made within four (4) months from the end of said fiscal year or other period.
- (D) The return shall also show the amount of the tax imposed by the chapter on such earnings or net profits, or both.
- (E) The taxpayer making the return shall at the time of filing thereof, pay to the Village the amount of tax shown to be due and unpaid by the return. If pursuant to the provisions of Section 27.68 the taxpayer shall show the amount of overpayment and may in the amount thereof be credited against the amount which will be

required to be paid by the taxpayer on the next succeeding installment of tax which may be due.

For payments in installments, see Section 27.68.

- (F) Where any portion of the tax otherwise due shall have been deducted at the source and shall have been paid to the Village by the person making the said deduction, a credit equal to the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the time of the filing of the said return.
- (G) Upon written request of the taxpayer, the Village Tax Administrator may extend the time for filing the annual return for a period of not more than six (6) months or not more than thirty (30) days beyond any extension requested of and granted by the Bureau of Internal Revenue for filing of the federal income tax return.



**Section 27.63: Collection at Source:**

- (A) It is the duty of each employer (as hereinbefore defined) who employs one or more persons on a salary, wage, commission, or other compensation basis, to deduct from compensation paid to any employee subject to this chapter, the tax of one percent (1%) of such salary, wage, bonus, incentive payment, commission or other compensation due by said employer to said employee. The tax shall be deducted by the employer from:
  - (1) All compensation paid to employees who are non-residents of the Village for services rendered, work performed or other activities engaged in to earn such compensation within the Village; and
  - (2) From the gross amount of all salaries, wages, bonuses, incentive payments, commissions or other forms of compensation paid to employees who are residents of the Village, regardless of the place where the services are rendered.
- (B) All employers who or which maintain an office or other place of business in Rio Grande are required to make the collections and deductions specified in this Section, regardless of the fact that the services on account of which any particular deduction is required as to residents of the Village were performed at a place of business of any such employer situated outside the Village.
- (C) The mere fact that the tax is not withheld will not relieve the employee of the responsibility of filing a return and paying the tax on the compensation received.
- (D) Commissions and fees paid to professional men, brokers, and others who are independent contractors and not employees of the payor, are not subject to withholding or collection of the tax at the source. Such taxpayers must, in all instances, file returns and pay the tax pursuant to the provisions of Sections 27.52 or 27.03. (See Section 27.54 and 27.55).
- (E) In the case of employees who are non-residents of Rio Grande the amount to be deducted is one percent (1%) of the compensation paid with respect to personal services rendered in Rio Grande.

Where a non-resident receives compensation for personal services rendered or performed partly within and partly outside Rio Grande, the withholding employer shall deduct, withhold and remit that portion of the compensation which is earned within Rio Grande in accordance with the following rules of apportionment:

- (1) If the non-resident is a salesman, agent or other employee whose compensation on the basis of commission depends directly on the volume of business transacted by him, the deducting and

withholding shall attach to the portion of the entire compensation which the volume or business transacted by the employee within the Village bears to the volume of business transacted by him within and outside the Village.

- (2) The deducting and withholding of personal service compensation of all other employees (including officers of corporations) shall attach to the portion of the personal service compensation of such employee which the total number of working days employed within the Village bears to the total number of working days employed within and outside the Village.
- (3) If it is impossible to apportion the earnings as provided above, because of (a) the peculiar nature of the service of the employee, or (b) the unusual basis of compensation, apportionment shall be made in accordance with the facts and the tax deducted and withheld accordingly.
- (4) The occasional entry into the Village of a non-resident employee who performs the duties for which he is employed entirely outside the Village, but enters the Village for the purpose of reporting, receiving instructions, accounting, etc., incidental to his duties outside the Village, shall not be deemed to take such employees out of the class of those rendering their services entirely outside the Village.
- (F) An employer shall withhold the tax on the full amount of any advances made to an employee on account of commissions (whether by way of drawing account or otherwise- but see paragraph G below) where such advances are in excess of commissions earned.
- (G) An employer required to withhold the tax on compensation paid to an employee shall, in determining the amount of which the tax is to be withheld, ignore any amount allowed and paid by the employer to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his services. Provided, that such expenses must be of the kind and in the amount recognized and allowed as deductible expenses for federal income tax purposes.

**Section 27.64: Returns of Tax Withheld and Payments:**

- (A) The deduction from salaries, wages, and other compensation required to be made by employers are to begin with compensation earned on and after March 9, 1981. The first return and payment required to be made on account of such deductions shall be made, filed and paid to the Village Tax Administrator by April 30, 1982.
- (B) Each employer within the Village who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct monthly, or more often than monthly, and at the time of the payment of such salary, wage, commission, or other compensation, the tax of one percent (1%) of salaries, wages, commissions or other compensation due by the said employer to the said employee.
- (C) Every employer required to deduct and withhold any amount under this section shall file a return thereof and shall pay that amount as required herein as follows:
  - (1) In monthly payments to be made not later than thirty (30) days following the close of the calendar month during which the amount was withheld.
- (D) Said return shall be in a form prescribed by and obtainable from the Village Tax Administrator and shall be subject to the rules and regulations prescribed therefor by the Village Tax Administrator. Such employer, in collecting said tax, shall be deemed to hold same until payment is made by such employer to the Village as such for the Village and any such tax collected by such employer from his employees shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer.
- (E) For adjustment of errors in returns of tax withheld by employers, see Section 27.72.

**Section 27.65: Limitation on Credit for Tax Paid at Source:**

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

**Section 27.66: Status and Liability of Employers:**

- (A) Every employer is deemed to be a trustee of the Village of Rio Grande in collecting and holding the tax required under the ordinance to be withheld, and the funds so collected by such withholding are deemed to be trust funds.
- (B) Every such employer required to deduct and withhold the tax at the source is liable directly to the Village for the payment of such tax, whether actually collected by such employer or not.

**Section 27.67: Declarations:**

- (A) An employee whose entire wage, salaries or other compensation for any taxable year will be subjected to the withholding provisions under Section 27.64 through 27.66 whose tax will accordingly be withheld as to his entire earnings for such year by his employer, and who during such taxable year expects to derive no other compensation or other income which is subject to tax under this chapter, need not file a declaration as provided in this Section.
- (B) All other taxpayers (as defined in this chapter) subject to the taxes imposed in Section 27.03, and every taxpayer who anticipates any income or net profits not subject to total withholding as provided in the preceding paragraph, shall file with the Village Tax Administrator a declaration of his estimated tax as follows:
  - (1) On or before April 30, 1981, every such taxpayer shall file a declaration of his estimated tax for the taxable period beginning March 9, 1981, and ending December 31, 1981.
  - (2) A similar declaration shall be filed by each such taxpayer on or before the 30th day of April of each subsequent year during the life of the chapter, and each such declaration shall contain a statement of the taxpayer's estimated tax for the full taxable year in which such declaration is filed.
  - (3) Taxpayers who or which are permitted, pursuant to the provisions of Section 27.59 to return and pay their tax upon fiscal year basis, shall file their first declaration within four (4) months after the beginning of the first fiscal year beginning after January 1, 1981, and the subsequent declaration for each year thereafter on or before the 30th day of the fourth month following the beginning of each such fiscal year.
  - (4) The estimated tax may be paid in full with the declaration or in equal installments on or before April 30, June 30, September 30, and December 31, the first filing being as of April 30, 1981. Those taxpayers on a fiscal year basis shall make quarterly payments on or before the 30th day of the fourth month and on or before the last day of the sixth, ninth and twelfth month following the beginning of such fiscal year. The first installment, equal to at least one-fourth (1/4) of the estimated tax, must accompany the declaration.
  - (5) The declarations so required shall be filed upon a form furnished by or obtainable from the Village Tax Administrator. Any taxpayer who has filed an estimate for federal income tax purposes may, in making the declaration required hereunder, simply state therein that the figures therein contained are the same figures used by the taxpayer in making the

declaration of his estimate for the federal income tax. However, in addition to such statement, any such taxpayer may, in such declaration, modify and adjust such declared income so as to exclude therefrom income which is not subject to tax under the chapter.

- (6) Any estimate filed hereunder may be amended by the filing of an amended estimate at the time prescribed for the payment of any installment of tax paid in accordance with Section 27.68.

**Section 27.68: Payment of Tax Installments:**

- (A) At the time of filing each declaration (required by Section 27.67) each taxpayer shall pay to the Village one-fourth (1/4) of the amount of his estimated annual tax. Thereafter, on or before the 30th day of April, June, September and December of each year during the life of the chapter, such taxpayer shall pay at least a similar amount. However, if any such taxpayer shall, on or before any such payment date, file amended declaration showing an increase or decrease of an estimated tax, the installments then and thereafter due shall be increased or decreased (as the case may be) in such manner that the balance of the estimated tax shall be fully paid on or before December 31st of the taxable year involved through the payment of quarterly installments in equal amounts during the quarterly periods remaining from and after the filing of any such amended declaration.
- (B) Taxpayers who or which are permitted to make returns and pay their tax on a fiscal year basis (see Section 27.59) may make the quarterly payments on their declaration of estimated tax pursuant to Section 27.67 (B) (3) (4).
- (C) For final returns and final adjustment of tax due, see Section 27.62.



**Section 27.69: Reciprocity Provision Credit for Tax Paid to Other Municipalities:**

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

**Section 27.70: Inquisitorial Powers of the Village Tax Administrator:**

- (A) The Village Tax Administrator personally, or his agents, are authorized and empowered to examine the books, papers, and records of any employer, or supposed employer, or of any taxpayer, or supposed taxpayer, in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax imposed by this chapter.
- (B) Every employer or supposed employer, and every taxpayer or supposed taxpayer, is required to furnish to the Village Tax Administrator or his duly authorized agents or employees, the means, facilities and opportunity for such examinations, investigations and audits as are authorized in and by this chapter.
- (C) The Village Tax Administrator or his duly authorized agent or employee is further authorized and empowered to examine under oath any person concerning any income which was or should have been returned for taxation, and to this end, the Village Auditor, has the right and power to compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whom he believes to have knowledge of such income.
- (D) Refusal of any examination by any employer or person subject to the tax, or presumed to be such employer or person so subject, constitutes a misdemeanor punishable by fine or imprisonment, or both.

**Section 27.71: Records to be Kept by Employers and Taxpayers:**

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

**Section 27.72: Collection of Deficiencies: Allowance of Credit for Overpayment:**

- (A) If, as a result of investigation conducted by the Village Tax Administrator, a return is found to be incorrect, the Village Tax Administrator is authorized to assess and collect any underpayment of tax withheld at source or any underpayment of tax owing by any taxpayer with respect to earnings or net profits, or both. If no return has been filed and a tax is found to be owing, the tax actually owing may be assessed and collected with or without the formality of obtaining a delinquent return from the employer or taxpayer.
- (B) Should it be disclosed, either as a result of an investigation by the Village Tax Administrator or through the medium of the filing of a claim or petition for refund or credit that an overpayment has been made, the Village Auditor will refund such overpayment.
- (C) The employer will, in every instance, be required to pay the full tax which should have been withheld, even though he may fail to withhold from the employee. If too much has been withheld, the excess shall be refunded by the employer to the employee. While the withholding agent (employer) will be expected to maintain complete records of such adjustments with the employees, any such adjustments made during any month will not need to be reflected in the withholding return or disclosed by schedules or statements thereto attached.
- (D) In those cases in which too much has been withheld by an employer from an employee and remitted to the Village and there has been a termination of the employee-employer relationship, the taxpayer (employee) may obtain an adjustment by application to the Village.

**Section 27.73: Penalty for Divulging Confidential Information:**

Tax returns, and all audits connected therewith, are confidential. Any information gained by the Village Auditor by his agents or employees, or by any other official or agent of the Village as a result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be held confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law. Violation of this provision constitutes a misdemeanor, punishable by fine not exceeding Five Hundred and No/100 Dollars (\$500.00) or imprisonment for not more than six (6) months, or both. Every such breach of confidence constitutes a separate offense.

**Section 27.74: Interest and Penalties:**

- (A) All taxes imposed and all moneys withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one-half percent ( $1/2\%$ ) per month or fraction thereof.
- (B) In addition to interest as provided in paragraph A, penalties based on the unpaid tax are hereby imposed as follows:
  - (1) For failure to pay taxes due, other than taxes withheld: One-half percent ( $1/2\%$ ) per month or fraction thereof.
  - (2) For failure to remit taxes withheld from employees: Three percent (3%) per month or fraction thereof.
  - (3) 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 (3) months after final determination of the federal tax liability.
- (D) Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may, nevertheless, abate penalty or interest, or both.

**Section 27.75: Collection of Unpaid Taxes:**

- (A) All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed, whichever is later; provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the administrator shall be one (1) year from the time of the final determination of the federal tax liability.
- (B) Taxes erroneously paid shall not be refunded unless a claim for refund made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.
- (C) Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.

**Section 27.76: Violations; Penalties:**

- (A) Any person who shall:
  - (1) Fail, neglect or refuse to make any return of declaration required by this chapter; or
  - (2) Make any incomplete, false or fraudulent return; or
  - (3) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator, or
  - (4) Fail, neglect or refuse to pay the tax penalties or interest imposed by this chapter, or
  - (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records or papers relating to the income or net profits of a taxpayer; or
  - (6) Fail to appear before the Administrator and to produce his books, records and papers relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
  - (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
  - (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
  - (9) Fail to use ordinary diligence in maintaining proper records of employee's residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
  - (10) Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer of any change in residence address and date thereof; or
  - (11) Attempt to do anything whatever to avoid the payment of the while 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 and No/100 Dollars (\$500.00) or imprisoned not more than six (6) months, or both, for each offense.
- (B) All prosecutions under this Section must be commenced within three (3) years from the time of the offense complained of, excepts in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event, the limitation of time within which prosecution must be commenced shall be five (5) years from the date the return was due or the date the false or fraudulent return was filed.
- (C) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.



**Section 27.77: Board of Review:**

- (A) A Board of Review, consisting of the president of the Village Council, (or his designated appointee from the remaining members of Council), two other council members and two other village residents, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board shall may be conducted privately and the provisions of Section 27.09, with reference to the confidential character of information required to be disclosed by the chapter, shall apply to such matters as may be heard before the Board on appeal.
- (B) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance, 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, is empowered to substitute alternate methods of allocation.
- (C) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance may appeal therefrom the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

**Section 27.78: Applicability:**

This chapter is inapplicable to any person or corporation upon whom or which it is beyond the legal power of the Village Council to impose the tax; it is likewise inapplicable as to any property, income or profits (or part thereof) as to which it is beyond the legal power of Council to levy the tax.

**Section 27.79: Construction; Separability of Provisions:**

This chapter shall not apply to any person, firm, corporation or to any property as to whom or which it is beyond the power of the Village Council to impose the tax herein provided for. If any sentence, clause, section or paper of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such sentence, clause, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the Village Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**Section 27.80: Consolidated Returns:**

- (A) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.
- (B) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the Village, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the Village. If the Administrator finds net profits are not properly allocated to the Village by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocations as he deems appropriate to produce a fair and proper allocation of net profits to the village.

**Section 27.81: Split Payrolls:**

- (A) In the case of hourly employees, where a payroll continues past March 9, 1981, and said payroll does not end until a period in March, 1981, said payroll shall be considered a split payroll, and as such, this payroll will not be subject to withholding tax under this chapter. This is to say only the first full pay for hourly employees earned after March 9, 1981, and all payrolls thereafter will become subject to withholding under this chapter.
- (B) All salaried employees paid on a calendar month will be subject to withholding under this chapter as of March 9, 1981.

**Section 27.82: Withholding Statements:**

The Rio Grande Income Tax Department will require the filing of employee earnings report, resembling federal form W-2 as of December 31, 1981, or at any subsequent date, a reconciliation of total payrolls, reconciled with payroll amounts reported subject to Rio Grande, Ohio, Village Income Tax.

**Section 27.83: Vacation Pay:**

Vacation pay paid in 1981 and in all subsequent years, will be subject to withholding deductions under this chapter.

**Section 27.84: Business Loss Set-off:**

- (A) A loss sustained by an individual who is engaged in a business, in addition to being a partner or member of another association or business, may not be set off against the profits of the other association or business, nor against the salary, wage, commission or other personal service compensation, (if any), which he may earn in another capacity. Nor may the business loss of an association or business be set off against the profits of another business engaged in by a member or partner of such association or business, or against the salary, wage, commission or other personal service compensation which a member or partner may earn in another capacity.
- (B) In the case of an individual who runs two or more businesses as individual proprietorships, loss from one such business may be set off against the net profits of the other, (but not against salaries, wages or other personal service compensation). The one percent (1%) tax shall be levied on the final net business income of the individual proprietor.



**SECTION 11**

This Ordinance shall take effect immediately upon its passage.

PASSED: February, 1981

ATTEST: Linda Miller, Clerk-Treasurer

Marlin Wedemeyer, Mayor of Rio Grande

The foregoing Ordinance is hereby approved as to form.

William N. Eachus,  
Rio Grande Village  
Solicitor

\_\_\_\_\_  
PASSED

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
PRESIDENT OF COUNCIL

SECTION 5: The foregoing Ordinance is approved as to form.

\_\_\_\_\_  
VILLAGE SOLICITOR

I hereby attest that this is a true and complete copy of Ordinance 2012-07, adopted at the official meeting on July 9, 2012.

\_\_\_\_\_  
FISCAL OFFICER